

PRELIMINARIES TO THE ACT OF MARCH 4, 1909.

U.S. Copyright Office

702
270

REVISION OF THE COPYRIGHT LAW

Circulars, Letters, and other Documents

showing

History of the Movement of Congress suggesting parti-
to

Revise the Copyright Laws, proposing to take part in
1904-1909

COPYRIGHT OFFICE.

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- 1904, Dec. 2. Letter transmitting writing paper ed. of Rev. Stats. relating to copyrights, preparatory to revision.
- 1905, Jan. 27. Senate report no. 3380, by Mr. Kittredge, to accompany bill H.R. 6487, amending sec. 4952, Rev. Stats. "It is purpose of Committee to attempt codification of copyright laws at next session of Congress."
- " " " Letter, Senator Kittredge to Librarian of Congress, in re calling conference on copyright.
- " Jan. 28. Letter, Librarian of Congress to Senator Kittredge, acknowledging above.
- " Feb. 23. Second letter transmitting writing paper ed. of Rev. Stats. relating to copyright. Notes to be made in margins.
- " Apr. 10. Circular letter of Librarian of Congress suggesting participation in conferences to be called.
- " May 6. Announcement to organizations proposing to take part in first conference, May 31, 1905.
- " May 19. Call to delegates appointed to take part in conference.
- " June 1. Extract from New York Evening Post.—"A Copyright Conference; notable gathering at City Club."
- " June 9. Letter transmitting two proof copies of list of associations represented and delegates present at conference, May 31-June 2, 1905.
- " — Printed list of participants at first copyright conference, ^{as above.}
- " Sept. 18. Notification of second conference, Nov. 1st.
- " Sept. 27-Oct. 23. Memorandum Draft of a bill to amend and consolidate the acts respecting copyrights. "Tentative text printed as manuscript solely for convenience in drafting. T.3."
- " Oct. 24. Call to delegates for second conference, Nov. 1, 1905, and transmitting advance copy of Memorandum Draft.
- " Nov. 1-4. Printed list of participants at second copyright conference.
- " Dec. 5. Message of the President of the United States, p. 44, "Copyright laws".

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separately
by.*

- 1906, Feb. 24. Announcement of third conference, Mar. 15, 1906.
- " Mar. 5. Call for third conference.
- " Mar. 6. Notice for procedure at third conference, ^{Mar. 13.} Printed, 3 pp.
- " Mar. 15-16. Printed list of participants at third conference.
- " Apr. 17. Letter transmitting importation clauses of the proposed copyright bill to members of the American Library Association. Printed.
- " — Importation clauses of the proposed copyright bill. (As under consideration, March 17, 1906.) Printed, 4 pp.
- " May 18. Letter transmitting circular following. Printed.
- " May 18. Circular to accompany copy of draft of bill proposed to be introduced into Senate and House of Representatives. Printed.
- " May 29. Notice that bill "will be introduced on Thursday, May 31," and first hearing will be given by the Committee on Wednesday, June 6. Printed.
- " May 31. Announcement, "Copyright bill was introduced today." First hearing June 6, with informal meeting June 5.
- " May 31. Copyright bill, S. 6550; H. R. 19855. Library print, 25 pp.
- " June 2. Letter, Librarian of Congress to Chairmen of Senate and House committees on patents, transmitting Memorandum on the copyright bill.
- " — Memorandum on the copyright bill: A--Some leading features; B--Provisions of existing law which are omitted from the bill. Printed, 6 pp.
- " June 2. Senate Resolution No. 159, submitted by Mr. Kittredge, providing for printing for Committees on Patents.
- " June 6. Statement of Librarian of Congress to Committees at the first public hearing on copyright bill (S. 6550, H. R. 19855). Printed, 12 pp.
- " June 11. Letter, Register of Copyrights to persons who spoke at Hearing, advising that stenographic report can be consulted for purposes of revision.
- " June 20. Letter of R. of C. requesting return of first two drafts of copyright bill.
- " Nov. 22. Notification of second Hearing, Dec. 7, 1906. Printed.

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- 1907, Jan. . Substitute suggested by Copyright Office for Section 12 of the bill.
- a' Jan. 22. The Copyright Term: Memorandum accompanying substitute suggested by Copyright Office. Printed, 3 pp.
- " General term of copyright in various countries. Printed, 1 leaf.
- 1908, Mar. 18. Notification of third hearing Mar. 26, 1908. Printed.
- " Mar. 19. S. Res. 129, Mr. Sweet, for printing for S. Com. on Patents.
- " May 9. Memorandum showing distribution of printed report of hearing of Mar. 26-28, 1908.

1909, Jan. . Letter of R. of C. transmitting his report of the Berlin Conference, noting changes in Copyright Bill interesting to foreigners.

List of Copyright Bills leading to the act of Mar. 4, 1909.

List of Reports on Copyright Bills leading to the act of Mar. 4, 1909.

"The Publishers' Weekly", July 3, 1909:

- The Copyright Code: its history and features, pp. 19-21.
- Copyright Code Defects, pp. 21-22.
- The Copyright Campaign. Chronological list of documents, etc., leading up to the Copyright Law of March 4, 1909, pp. 22-24.
- Importation of copyright books into foreign countries. By George Haven Putnam, pp. 25-26.

Activities of Librarian in Revision of
Copyright Law.

1. January, 1905.

Senator Kittredge suggests Librarian call a conference to consider new copyright law.

2. April 10, 1905.

Circular letter sent by Librarian to numerous organizations, suggesting meeting of their representatives in New York. See Librarian's Annual Report, 1905-6, pp. 85-89.

3. May 31 - June 2, 1905.

First Copyright Conference, presided over by Librarian, at City Club, New York. See Circular herewith with list of delegates of organizations present. See also Librarian's Report 1905-6 at pp. 90-91.

4. November 1, 1905.

Second conference at City Club, New York. See Librarian's Report, 1905-6.

5. March 15-16, 1906.

Third conference at Library of Congress. See memorandum sent by Librarian March 6, 1906, to organizations interested, containing suggestions for consideration as to substance of law, and as to procedure of conference. Herewith.

6. May 18, 1906.

Draft of bill resulting from conferences sent to all participants requesting suggestions, with a view to hearing by Congressional Committees. Circular transmitting draft herewith.

7. May 31, 1906.

Announcement of introduction of Bill in Congress and hearings to be held June 6, 1906. Herewith.

7a. June 2, 1906.

Memorandum to members of Committees on Patents. "Some Leading Features." Herewith.

8. June 6, 1906.
Statement by Librarian at Hearing, June 6, 1906, giving history of project. Herewith.
9. June 6, 7, 8, 9, 1906.
Hearings, in which Librarian participated. Stenographic Report herewith.
10. December 7, 8, 10, 11, 1906.
Further hearings. Report herewith.
11. January 22, 1907.
Circular letter relating to Copyright Office provision for the term of copyright. Herewith. (Ansering objections):
12. March 18, 1908.
Notification of hearings to be held March 26, 27, 28, 1908.
13. March 26, 27, 28, 1908.
Stenographic Report of Hearings. Herewith.

Note:

The Publishers' Weekly for July 3, 1909, contains an article entitled "The Copyright Code: Its History and Features", which refers to the Librarian's part in the movement leading up to the Act of 1909.

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LIBRARY OF CONGRESS,

COPYRIGHT OFFICE.

WASHINGTON, D. C., December 2, 1904.

Gentlemen:

In the hope of arousing sufficient interest in copyright legislation to induce Congress to take some action during the coming session, looking toward the revision of the copyright laws, I have prepared as a rider to my recent Special Report on Copyright Legislation, a bibliographical and chronological record of all movements in Congress relating to copyright from 1789 to date.

In line with this endeavor to secure intelligent discussion of the revision of our copyright legislation, I have prepared a special edition of the laws as they stand today, giving the Revised Statutes relating to copyrights, followed by the corresponding sections of the Act of July 8, 1870, and in parallel columns the text of such subsequent legislation as bears upon the special subject-matter.* This edition is printed on writing paper with wide margins so that any one interested can make notes in relation to the legislation as it stands. I should be pleased to get the copies of this edition into the hands of all such persons as are really interested in the reform

*Orig. pub. in Librs ann. rept. 1903, p. 479-

of our copyright legislation. I, therefore, send you a copy herewith, with the request that you give me, if possible, the names of any other person or persons whom you think could make good use of such copies.

I should be glad if you, yourself, would make practical use of this copy by jotting down in the margin such notes as occur to you, which memoranda might become available if Congress should give an opportunity to consider such suggestions from persons practically interested in copyright legislation.

Sincerely yours,

THORVALD SOLBERG,

Register of Copyrights.

Note: - The above letter was sent with a folio edition of the Revised Statutes relating to Copyrights, printed on writing paper. The edition consisted of 500 copies. These copies were distributed to associations and individuals interested in copyright, such as the Amer. Authors' and Publishers' Copyright Leagues, Photographers' Copyright League, Trustees of the Assn. of Directory Publishers, National Institute of Arts and Letters, Amer. Dramatists Club, English Society of Authors, Delegates to the first Copyright Conference, etc.

58th CONGRESS
3rd Session

H. R. 6487.

IN THE SENATE OF THE UNITED STATES

December 15, 1904.

Read twice and referred to the Committee on Patents.

AN ACT

To amend section forty-nine hundred and fifty-two of the Revised Statutes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and fifty-two of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"Section 4952. The author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, publishing, completing, copying, executing, finishing, and vending the same; and, in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others. And authors or their assigns shall have exclusive right to dramatize or translate any of their works for which copyright shall have been obtained under the laws of the United States.

"Whenever the author or proprietor of a book in a foreign language, which shall be published in a foreign country before the day of publication in this country, or his executors, administrators, or assigns, shall, within twelve months after the first publication of such book in a foreign

country, obtain a copyright for a translation of such book in the English language, which shall be the first copyright in this country for a translation of such book, he and they shall have, during the term of such copyright, the sole liberty of printing, reprinting, publishing, vending, translating, and dramatizing the said book, and, in the case of a dramatic composition, of publicly performing the same, or of causing it to be performed or represented by others: Provided, That this Act shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on the same basis as is given to its citizens by this Act."

Passed the House of Representatives December 14, 1904.

Attest:

A. McDOWELL,

Clerk.

Calendar No., 3269.

58TH CONGRESS,
2d Session.

SENATE.

REPORT
No. 3390.

AMENDING SECTION 4952 OF THE REVISED STATUTES.

JANUARY 27, 1905.—Ordered to be printed.

Mr. KITTREDGE, from the Committee on Patents, submitted the following

REPORT.

[To accompany H. R. 6487.]

The Committee on Patents, to whom was referred the bill (H. R. 6487) for the amendment of section 4952 of the Revised Statutes, recommend that said bill do pass with the following amendment:

Strike out the words "benefit of copyright on the same basis as is given to its citizens by this act," lines 1 and 2, page 3 of the printed bill, and insert in lieu thereof the words "benefit of copyright on substantially the same basis as to its own citizens."

The following letter is submitted in support of this favorable report:

LIBRARY OF CONGRESS, COPYRIGHT OFFICE,
Washington, D. C., January 26, 1905.

SIR: In compliance with your request of January 23 for an expression of opinion from this office on House bill 6487, to amend section 4952 of the Revised Statutes, relating to copyrights, I beg to report as follows:

1. That the purpose of this bill appears to this office equitable and unobjectionable.
2. That the proviso passed by the House in the way of an amendment to the original bill would seem to require some slight alteration in order to bring its provisions into harmony with the act of March 3, 1891. This alteration should be that in lines 1 and 2, on page 3, the words "benefit of copyright on the same basis as is given to its citizens by this act," should be changed to read, "benefit of copyright on substantially the same basis as to its own citizens."
3. The bill provides for a period of one year within which to comply with the requirement that the work shall be typeset within the limits of the United States, but this term of twelve months is allowed only when the book is originally published in a foreign language. In equity there would seem to be no reason why the allowance should not equally extend to all books originally published abroad.
4. That the words in lines 16 and 17, page 2, reading "which shall be the first copyright in this country for a translation of such book," would cause difficulty of construction, and, if construed literally, are calculated to nullify the benefit proposed by the bill. They should, we think, be stricken out. Conflicting claims between

translations entered for copyright would require to be settled by the courts as other matters of dispute.

This is not to object to the present bill, but to suggest that it might go further with advantage.

Very respectfully,

THORVALD SOLBERG,
Register of Copyrights.

Hon. ALFRED B. KITTREDGE,
Chairman Committee on Patents, United States Senate.

Approved and transmitted.

HERBERT PUTNAM,
Librarian of Congress.

Your committee deem it inadvisable at this session to enlarge the scope of this bill to extend to all books originally published abroad. It is the purpose of your committee to attempt a codification of the copyright laws at the next session of Congress.

UNITED STATES SENATE.

Committee on Patents.

Washington, D.C., January 27, 1905.

Hon. Herbert Putnam,
Library of Congress,
Washington, D.C.

My dear Sir:-

Yesterday I conferred with Senator Platt of Connecticut regarding your suggestion that Congress by resolution authorize you to call a conference to consider a codification of the copyright law. Senator Platt is strongly opposed to the appointment of a commission and also thinks it improper for Congress to authorize you to call this conference. I have taken this matter up with the members of the Patent Committee and we have agreed that Senator Platt's conclusion is correct. The Committee hopes, however, that you will of your own motion call such a conference, which Senator Platt heartily approves. May I suggest that you notify representatives of the Publishers' Copyright League, and the Typographical Union to meet you and your assistants at some convenient time for the purpose of preparing a complete copyright law for consideration at the next session of Congress.

Very respectfully,

(Signed) A.B.Kittredge.

LIBRARY OF CONGRESS,
WASHINGTON
COMMERCIAL OFFICE

OFFICE OF THE LIBRARIAN

WASHINGTON, D. C. February 22, 1905

January 28, 1905.

Dear Sir:

Senator:

I beg to acknowledge your favor of yesterday with

reference to a conference to consider a codification of

the copyright law, and to say that we shall take much

interest in complying with your suggestions.

Very respectfully,

HERBERT PUTNAM,

Librarian of Congress.

This volume of the laws as they stand to-day gives the Revised

of the Act of 1909, and in parallel columns the text of such sub-

sequent legislation as was upon the special subject matter.

Hon. A. B. Kittredge,

Chairman, Committee on Patents,
United States Senate.

of this copy by leaving notes in the margins such notes as occur to you,

which suggestions would be available if Congress should give an oppor-

to be of interest to the Register from persons practically interested

in the subject.

Very truly yours,

Register of Copyrights.

These printed tables are for the use of the
of the writing paper edition of the tables are also printed
and is copyrightable. and by the U.S. Govt.

Published by the Government

LIBRARY OF CONGRESS,

COPYRIGHT OFFICE.

In reply quote file

No.

WASHINGTON, D. C., February 23, 1905

Dear Sir:-

Desiring to reach all persons interested in the reform of our copyright legislation and having been informed that you take an interest in this subject, it gives me pleasure to send you herewith a copy of a special edition of the Revised Statutes of the United States relating to copyrights, printed on writing paper, with wide margins, to admit of manuscript annotations being made of suggested improvements in the existing law.

This edition of the laws as they stand to-day gives the Revised Statutes relating to copyrights, followed by the corresponding sections of the Act of July 8, 1870, and in parallel columns the text of such subsequent legislation as bears upon the special subject matter.

I should be glad if you, yourself, would make practical use of this copy by jotting down in the margins such notes as occur to you, which memoranda might become available if Congress should give an opportunity to consider such suggestions from persons practically interested in copyright legislation.

Very truly yours,

Register of Copyrights.

Note:- Second letter sent out with copies of the writing paper edition of the Revised Statutes relating to copyrights, sent out in 1905.

P.S. Your name was suggested by

REVISION OF COPYRIGHT LAWS

The existing copyright laws of the United States are admittedly imperfect and confused, difficult for the courts to interpret, and impossible for the Copyright Office to administer to the satisfaction of its clients. A similar, though less flagrant condition of the laws relating to trade-marks led to the appointment by Congress of a Commission to revise and codify them. Similar action has been urged to deal with copyright. The experience of the committees of Congress concerned with these subjects led them to believe, however, that as effective results would be achieved more promptly, and at less cost, by conference and agreement among the various interests particularly suffering from defects in the present laws and likely to benefit in a direct and practical way by the correction of them.

In April last the following circular was issued from my office:

April 10, 1905

"SIR: It is generally admitted by those most directly concerned that the copyright laws of the United States need revision. Since the enactment of the Revised

*Revision of
copyright laws*

Statutes relating to copyright, twelve amendatory acts have been passed, and as these contain textual contradictions and inconsistencies the interpolation of their provisions into those of the Revised Statutes gives rise to serious perplexities and embarrassments. Projects for the further amendment of these laws are constantly urged, and five copyright bills were pending on the adjournment of Congress on March 3, 1905.

"It is doubtful, however, if the enactment of additional provisions which are merely partial or temporizing will remedy the existing difficulties. The time seems to have been reached for the replacement of the existing insufficient and inconsistent laws by one general copyright statute.

"The Senate Committee on Patents, which deals with copyright legislation, has, in view of these considerations, made public its purpose "to attempt a codification of the copyright laws at the next session of Congress." The chairman of that committee has suggested that the Librarian of Congress call a conference to consider such a codification, and that such persons and associations as are interested in the subject be invited to be present or to appoint delegates to meet at some suitable place and convenient time, for the purpose of discussing a draft of a general copyright law to be presented for consideration at the next session of Congress.

"It would be desirable to secure such a meeting as early in the summer as possible, and, as a matter of convenience to the greater number of possible representatives, it is proposed to meet in New York City at some place and date (between May 25 and June 15) to be fixed upon later. This preliminary conference should be followed by a second meeting in the autumn sufficiently early to allow the results arrived at to be properly formulated for presentation upon the opening of Congress in the following December.

"The discussions must necessarily be kept within a limit that shall insure a practical result. They will, however, afford opportunity, not merely for considering

the defects of the present laws in definition and expression, but other imperfections through which they fail to secure protection obviously just. These defects and imperfections should be submitted to the conference by the interests concerned with their remedy. A representation of such interests as nearly complete as feasible will be sought.

"We assume that your organization should participate, and suggest that action be taken toward its representation by at least one, not exceeding two, delegates. (The number should be thus limited in order to avoid a total number that would be unwieldy.) We recommend, therefore:

(1) That you submit this project to your organization or such body as may be authorized to act in its behalf;

(2) That the organization, or such other body, designate a delegate or two delegates, who shall be authorized, in its behalf, to submit suggestions to the conference, to participate in its discussions, and to cast votes on all questions submitted to a vote;

(3) That prompt notice be given to the Librarian of Congress of the action taken as above;

(4) That in case your organization does not care to be represented, you notify the Librarian immediately.

"An invitation similar to this is being issued concurrently to various other organizations representing authors, painters, composers, playwrights, photographers, publishers, printers and illustrators, the American Bar Association, and certain others concerned with copyright matters.

"For effective discussion it seems necessary that the main conferences should be primarily of representatives of organized interests. That need not preclude the conference itself from seeking counsel or suggestion from individuals; though it seems probable that such counsel or suggestion could most advantageously be transmitted through some one of the organizations formally represented at the conference.

"I shall be glad to receive from you suggestion of any other organization representing interests akin to those represented by yours, to which a copy of this invitation should be addressed.

"The questions to be submitted in behalf of the interests which you represent should of course be determined beforehand, and formulated with such precision that your representatives can present at the conference practically definite instructions. If, in advance of the conference, copies of your proposals can be sent to me, the points raised can be collated and the discussion upon them thereby facilitated.

"The Register of Copyrights has prepared an edition of the copyright laws in force, in which the provisions of the Revised Statutes relating to copyright are presented in an orderly arrangement, with the corresponding provisions of subsequent amendatory acts in parallel columns. This is printed on writing paper with wide margins, upon which can be noted suggestions relative to the provisions of the laws now in force. A copy of this work will be sent upon request."

"Very respectfully

"HERBERT PUTNAM

"*Librarian of Congress*"

COPYRIGHT CON-
FERENCE
Memoria

The conference met at New York on May 31, and a second session was held in November, also at New York.

The organizations represented comprised the following:

American (Authors') Copyright League: Richard R. Bowker, vice-president; Robert Underwood Johnson, secretary.

American Bar Association: Arthur Stewart, Edmund Wetmore, F. F. Reed, ^a

American Dramatists Club: Bronson Howard, president; Joseph I. C. Clarke, first vice-president. Joseph R. Grismer; Henry P. Mawson.

American Institute of Architects: Glenn Brown, secretary.

American Library Association: Frank P. Hill, president; Arthur R. Boatwick.

American Newspaper Publishers' Association: John Stewart Bryan, Louis M. Duvall, Don C. Seltz, Mr. Walsh (representing Mr. Seltz).

^aThis representative was the only one not present at any of the sessions.

American Publishers Copyright League: William W. Appleton, president; George Elmer Fennan, secretary; Charles Scribner, treasurer; Stephen H. Olin, counsel.

Architectural League of America: D. Everett Ward.

Association of American Directory Publishers: W. H. Bates, secretary; Wilson E. Lee.

Association of Theatre Managers of Greater New York: Charles Burnham, first vice-president; Henry B. Harris, secretary.

International Advertising Association: Will Phillip Hooper, J. L. Stewart.

International Typographical Union: J. J. Sullivan, chairman; C. T. C. copyright committee: F. H. McCormick, president, and George J. Jackson, organizer, of New York Typographical Union, No. 4.

Lithographers' Association (East). [See Reproductive Arts Copyright League.]

Manuscript Society: Miss Laura Sedgwick Collins, charter member; delegate: F. L. Seely.

Music Publishers Association of the United States: J. F. Fowlers, president; George W. Furniss, chairman copyright committee; Walter M. Bacon, R. L. Thomas; Nathan Burkan, counsel.

National Academy of Design: Frank D. Miller.

National Association of Photo-Engravers: B. W. Wilson, jr.

National Educational Association: George S. Davis, associate city superintendent of schools; C. G. Leland, librarian Board of Education of New York.

National Institute of Arts and Letters: Edmund Clarence Stedman, president; Brander Matthews.

National Sculpture Society: Karl Bitter, vice-president.

Periodical Publishers' Association of America: Charles Scribner.

Photographers' Copyright League of America: B. J. Falk, president; Frie MacDonald.

Print Publishers' Association of America: Albert Smith, president; W. A. Livingstone, secretary.

Reproductive Arts Copyright League: A. Beverly Smith, secretary; Robert M. Donaldson; F. D. S. Bethune, counsel; E. B. Osborne, counsel.

Society of American Artists: John La Farge, president; John W. Alexander.

The Sphinx Club: Will Phillip Hooper.

United Typothetæ of America: Isaac H. Blanchard, of executive committee; Chas. W. Ames.

Treasury Department: Charles P. Montgomery.

Solicitor General's Office: represented by Mr. W. J. Hughes.

In addition to the delegates named above, Samuel J. Elder, esq., and A. W. Elson, esq., of Boston, were present.

COPYRIGHT CON-
FERENCE
Proceedings

The limitations, as well as the opportunities of the Conference, were indicated in my opening remarks to the delegates at their first session:

"The origin, the occasion, and the purpose of this Conference are indicated in the call. The origin is a general agreement that our present copyright laws are defective in definition and imperfect, and perhaps inconsistent, in expression. The occasion is an intimation from the Senate Committee on Patents that at the coming session of Congress the committee proposes to submit a bill for a codification of these laws. Such a bill would naturally be drafted in the Copyright Office. If so, it would be the desire of the Copyright Office to have upon it the criticism of the various interests concerned with copyright protection. But the Office sees in it also an opportunity to submit to Congress in a systematic and orderly way various suggestions for the perfection of the laws where it is claimed they are now unjust or defective, and this Conference is to give expression to these suggestions. Such of them as survive discussion will be noted for the attention of Congress in connection with such a codification. We invite them. We shall try to secure fair consideration for any of them that seem obviously just or to be supported by a considerable opinion. But we would not have our abilities in the matter nor the abilities of this Conference overestimated.

"The Conference, of course, is not a commission appointed by Congress to revise or even to codify the law. It is not in a formal way appointed by Congress at all. It has been invited by the Copyright Office, at the suggestion, to be sure, of the chairman of the Senate Committee on Patents, but without any express direction or mandate of law. It will, of course, be advisory to the Office, and through the Office it may reach Congress with recommendations, but of course its expressions can be no more than recommendations, and the recommendations to be effective ought, of course, to be kept within reasonable limits likely to be adopted.

"The District Attorney has remarked that our statutory laws ought to be in two parts—the first of laws to be followed and the second of "moral yearnings." In our proposals for copyright we had, I think, better leave the moral yearnings to a later generation or at least a later session of Congress.

"The Conference is composed of organizations concerned with copyright protection, but it is composed of typical organizations only—important ones, but typical ones only. It can not claim, therefore, to be completely representative of the community. It has not been composed with reference to balancing interests possibly conflicting. A majority vote of its members would not determine a proposal to be just nor would a unanimous vote determine it to be expedient. In fact, any mere vote of the Conference would have small significance.

"Now, these are serious limitations. We think they ought to be clearly before you at the outset, but we do not believe that they should prevent a work here of high service and of profit, and a work of which there is urgent need; and we cannot but believe that *unanimity* of opinion in a body such as this, so nearly representative and including interests so important, must have great weight with Congress.

"Our first intention had been to ask you to submit your suggestions to us at Washington, either by letter or by delegates, and submit them as separate organizations. It later seemed that a comparison of views such as a meeting such as this might afford would be profitable; and then it seemed that it would be more considerate to the majority of you that this first session at least should be held in New York, and we have come to meet you here."

In addition to the Librarian of Congress and the Register of Copyrights, the Government was represented by Mr. Charles P. Montgomery, of the Treasury Department, whose explanations and suggestions with reference to importation

COPYRIGHT CON-
FERENCE
Proceedings. were clear and valuable. At the second session in November a representative of the Solicitor General's Office was present to observe and report the discussions, in the expectation that the Department of Justice would later be called upon for criticism of the proposed bill. The Conference accepted the theory of its functions thus indicated. It avoided the profession of an authority which it could not claim by avoiding either formal organization or formal "decision." The delegates submitted suggestions, expressed views, and discussed them, but they brought none of them to a formal vote.

The first session of the Conference was held at the City Club of New York, which had generously granted the use of its rooms. It occupied both mornings and afternoons of three successive days, beginning May 31. Its accomplishments are summarized in an editorial in the *Publishers Weekly*, from which I quote:

"Results of surprising unanimity were reached in a minimum of time and without waste of talk. * * * It was the unanimous feeling that unhoped-for progress toward an excellent, if not ideal, copyright code had been made possible, and that the results would probably be quicker and better than if the plan of a [copyright] commission had been adopted."

A stenographic report was preserved of the entire proceedings. Upon the basis of it and other accumulated data there was drafted by the Register of Copyrights a statement for consideration at the second session in November. For convenience it took the form of a bill; but was in effect a series of propositions for discussion.

The second session, also held at New York, lasted four days, and included detailed discussion of every proposed provision, with arguments for both additions and elimina-

tions. A third, to be held at Washington after the opening of Congress, will consider a new draft taking account of these and of specific criticism, legal and practical, from various sources. The result may be a measure which Congress can adopt without demur.

There have been many endeavors to perfect our copy-right laws; but they have been sporadic, as a rule directed to one particular defect, and generally undertaken by the single interest having a grievance or, perhaps even less fortunately, by advocates of an abstract justice which ran counter to a particular interest. The proposed measure will represent a very different purpose, method, and authority. Its purpose is indeed justice, but a justice within the general intent of the existing law. It recognizes certain definite defects which entail certain substantial hardships. It summons to conference the interests which in a substantial—not merely theoretic—way are the actual sufferers. And these agree upon the remedies to be recommended. But on considering these remedies they have at hand, prepared by the Copyright Office, in anticipation of this very exigency, careful analyses not merely of the existing copyright laws of the United States and of foreign countries, but of the past statutes, showing the development of the domestic law and even of every bill ever introduced into Congress proposing amendment of it. They have at their service without cost sound legal counsel from the representatives of the American Bar Association, itself a participant; the criticisms of other experts on copyright law, and of the legal advisers of the government. And, furthermore, they have throughout the sympathy and the cooperation, the active aid and the conservative experience of the Copyright Office, with its precise knowledge of existing procedure, which in this case is also a knowledge of the substantive right.

COPYRIGHT
LAWS:
*Scope of pro-
posed reforms*

Surely from these elements, joined with the spirit of fairness and of courtesy manifest at the conferences, there should issue a measure entitled to respect.

LEGISLATION NEEDED

In my last report I referred to certain legislation, other than revision of the copyright laws, as needed to facilitate the current administration of the Library. As none of this has yet been provided, I venture to repeat the statement of it:

Postal law. Amendments which—

(1) Will confer upon the Library the privilege of free registration of mail matter, already accorded to various departments and bureaus of the Government.

(2) Will render explicit the privilege upon the part of copyright applicants of free transmission to the Copyright Office of articles deposited under the copyright law. The privilege was granted in 1867, repeated in 1870, but has been cast into doubt, at least, by subsequent general legislation.

(3) Will similarly render explicit the privilege of free transmittal in general of mail matter to and from the Library of Congress on the public business. This has been assumed, but only under the provisions of law touching executive business of the Government in general.

Tariff law. The inclusion of music, *reproductions of photographs, and all other printed material, bound or unbound*, in the description of the articles which, under the act approved July 24, 1897 (par. 500 of sec. 2), may be imported free of duty for the use of the Library of Congress. Music the Library may now import only under paragraph 503 (which exempts public libraries in general). Reproductions of photographs are not now provided for in either paragraph. On some the Library has

already actually paid duty—contrary to the manifest intention of Congress that material for the Government collections and use should enter free.^a

Wilkes Exploring Expedition; Margry Papers. Provision for the final distribution of the fragments or residue of these still remaining in the custody of the Library.

Respectfully submitted •

HERBERT PUTNAM

Librarian of Congress

The Honorable

THE PRESIDENT OF THE SENATE

^a Paragraph 500 is now as follows:

"SEC. 2. That on and after the passage of this act, unless otherwise specially provided for in this act, the following articles when imported shall be exempt from duty:

• * * * * *

"500. Books, engravings, photographs, etchings (bound or unbound), maps and charts imported by authority or for the use of the United States or for the use of the Library of Congress."

The specifications of paragraph 503 are "books, maps, music, photographs, etchings, lithographic prints, and charts specially imported, etc."



LIBRARY OF CONGRESS

OFFICE OF THE LIBRARIAN

WASHINGTON

May 6, 1905

To the Organizations Proposing
To Take Part in the Proposed
Conference on Copyright:

The City Club of New York (55 West 44th Street)
has courteously tendered the use of its Club House
for the Conference.

The Conference will meet there for its first
session at 10:30 o'clock on Wednesday morning, May
31, 1905.

HERBERT PUTNAM.

Librarian of Congress

May 19 1905

To the Delegates Appointed
To Take Part in the Proposed
Conference on Copyright:

The first session of the Conference on Copyright will
be held at the City Club (55 West 44th Street, New York),
May 31, 1905, 10:30 a. m.

The following publications of the Copyright Office are
herewith transmitted to you as of possible assistance in
relation to this Conference. *

Librarian of Congress.

[Sent as follows:-

Wm.W.Appleton
Arthur E.Bostwick
R.R.Bowker
Glenn Brown
Frank P.Hill
Geo.J.Jackson
Robt.U.Johnson
P.H.McCormick
Francis D.Millet

Geo.Haven Putnam
Charles Scribner
Edmund Clarence Stedman
Arthur Steuart
J.J.Sullivan
D.Everett Waid
Walter M. Bacon
Geo.W.Furniss.

Geo.S.Davis
Albert Smith
W.A.Livingston
Brander Matthews
H.C.C.Stiles (with
drawn)
J.S.Bryan
L.M.Duvall
D.C.Seitz
B.J.Falk
P.MacDonald

- *1. ✓ The Copyright Law of the United States in force
March 3, 1905.
2. ✓ The Provisions of the U. S. Laws with a summary
of some parallel provisions of the copyright
laws of foreign countries.
3. ✓ Report on Copyright Legislation by the Register of
Copyrights.

A COPYRIGHT CONFERENCE.
NOTABLE GATHERING AT THE
CITY CLUB.

Various interests discussing the terms
of suitable legislation at the request
of Congress.

In order to discuss the necessary changes in the copyright laws and frame a bill for Congress to consider at its next session, a notable group of representatives from various organizations is holding an informal conference at the City Club, in West Forty-fourth Street. Herbert Putnam, Librarian of Congress, who was asked by the Senate's Committee on Patents to organize the conference, is the chairman. Among the participants are well known authors, playwrights, painters, architects, publishers, printers, photographers and librarians.

The conference, having settled down to work yesterday, probably will last until noon to-morrow. At this meeting, according to Mr. Putnam's plan, there are to be discussions of the different phases of the copyright laws and suggestions of amendments. A second meeting, at which a bill drafted by the copyright office will be considered, is scheduled for the first week in October, and a third is to be held just before Congress meets for final determination of the terms of the bill.

In his opening talk to the conferrees, Mr. Putnam said:

The origin, the occasion and the purpose of this conference

were indicated in the call. Its origin is a general agreement that our present copyright laws are defective in definition and imperfect and, perhaps, inconsistent in expression. Its occasion is an intimation to the Senate Committee on Patents that at the next session of Congress the committee will submit a bill embodying a codification of them. Such a bill will naturally be drafted by the copyright office. The office will desire upon it the criticism of the interests that are concerned with copyright protection. But it also sees in it an opportunity to bring upon Congress in a systematic and orderly way various suggestions for a perfection of the law itself, in respects in which it is claimed to be now defective or unjust. This conference is to give expression to these suggestions.

Those of them that survive discussion will be noted for the attention of Congress in connection with the codification. We invite them. We shall try to secure fair consideration for such of them as seem obviously just, or, at least, to be supported by a considerable opinion. But we would not have our ability in the matter overestimated, nor the abilities of this conference. The conference is not a commission appointed by Congress to revise the laws - or even to codify them.

Congress at all. It has been called by
It is not, in a formal sense, appointed by the copyright office, at the suggestion, to be sure, of the chairman of the Senate Committee on Patents, but not under any direction or mandate of law. It will be advisory to the office; and through the office it may reach Congress with recommendations. But its expression can be no more than recommendations, and its recommendations, to be effective, should be limited to those which

have a reasonable prospect of adoption.

A district attorney has remarked that there ought to be two bodies of statutes -- one of laws to be followed, the other of "moral yearnings." In our proposals for copyright we had better leave the moral yearnings to a later generation, or at least a later session of Congress.

The conference is composed of organizations concerned with copyright protection; but only of typical organizations. It cannot claim to represent the community completely. It has not been composed with a view to balance interests possibly conflicting. A majority vote of its members would not determine the justice of a proposal; nor a unanimous vote its expediency. Upon most, in fact, of the questions raised a mere vote would have little significance.

The reason the committee on patents wished Mr. Putnam to call the conference was that past attempts to frame adequate copyright statutes through the medium of special commissions had proved failures. It was thought best to get practical suggestions from interests practically affected rather than theoretical recommendations from inexperienced investigators.

Since the revised statutes on copyright were enacted there have been passed twelve amendatory bills, and the last session of Congress had five measures on the subject before it. The laws, it has been discovered, are in a hopeless tangle, and must be codified and amended to give justice to those to whom they apply.

The Evening Post: New York, Thursday,
June 1, 1905. p.14.

44.

LIBRARY OF CONGRESS,

COPYRIGHT OFFICE.

In reply quote file

No.

WASHINGTON, D. C., June 9, 1905.

Dear Sir:

I inclose herewith two copies of the proof of a list of the Associations represented and the delegates present at the recent Copyright Conference in New York. Please scrutinize the list so far as your own Association and your own name are concerned to make sure that we have a correct statement in every particular.

One of the proof slips should be immediately returned to the Copyright Office with such corrections and remarks as you may think necessary, and the other you may retain for your own personal use. The final print of the list will follow promptly after the return of the corrected proof.

Respectfully,

THORVALD SOLBERG,

Register of Copyrights.

LIBRARY OF CONGRESS,
COPYRIGHT OFFICE.

Conference on Copyright held at New York City, May 31-June 2, 1905, inclusive.

LIBRARIAN OF CONGRESS
Herbert Putnam

REGISTER OF COPYRIGHTS
Thorvald Solberg

TREASURY DEPARTMENT
Charles P. Montgomery

List of Associations invited to participate and the delegates
nominated to be present.

✓ AMERICAN (AUTHORS') COPYRIGHT LEAGUE
Richard R. Bowker, Vice-President
Robert Underwood Johnson, Secretary

✓ AMERICAN BAR ASSOCIATION
Arthur Steuart

✓ AMERICAN DRAMATISTS CLUB
Bronson Howard, President
Joseph I. C. Clarke, *First Vice-President*

AMERICAN INSTITUTE OF ARCHITECTS
Glenn Brown, Secretary

✓ AMERICAN LIBRARY ASSOCIATION
Frank P. Hill, Vice-President
Arthur E. Bostwick

✓ AMERICAN NEWSPAPER PUBLISHERS' ASSOCIATION
John Stewart Bryan
Louis M. Duvall
Don C. Seitz

✓ AMERICAN PUBLISHERS' COPYRIGHT LEAGUE
William W. Appleton, President
*George Haven Putnam, Secretary
Charles Scribner, Treasurer

ARCHITECTURAL LEAGUE OF AMERICA
D. Everett Waid

ASSOCIATION OF AMERICAN DIRECTORY PUBLISHERS
W. H. Bates, Secretary

✓ ASSOCIATION OF THEATRE MANAGERS OF GREATER
NEW YORK
Charles Burnham, First Vice-President
Henry B. Harris, Secretary

INTERNATIONAL ADVERTISING ASSOCIATION
Will Phillip Hooper

✓ INTERNATIONAL TYPOGRAPHICAL UNION
J. J. Sullivan, Chairman I. T. U. Copyright
Committee
†P. H. McCormick, President, and George J.
Jackson, Organizer, of New York Typo-
graphical Union No. 6

LITHOGRAPHERS' ASSOCIATION (EAST)
A. Beverly Smith, Secretary
Robert M. Donaldson

MANUSCRIPT SOCIETY

Miss Laura Sedgwick Collins, (Charter Mem-
ber), Delegate

MUSIC PUBLISHERS' ASSOCIATION OF THE UNITED
STATES

✓ George W. Furniss, Chairman Copyright Com-
mittee
Walter M. Bacon

✓ NATIONAL ACADEMY OF DESIGN
Frank D. Millet

NATIONAL ASSOCIATION OF PHOTO-ENGRAVERS
*B. W. Wilson, Jr.

NATIONAL EDUCATIONAL ASSOCIATION
George S. Davis, Associate City Superintend-
ent of Schools

NATIONAL INSTITUTE OF ARTS AND LETTERS
Edmund Clarence Stedman, President
Brander Matthews

✓ NATIONAL SCULPTURE SOCIETY
*Karl Bitter

PERIODICAL PUBLISHERS' ASSOCIATION OF AMERICA
Charles Scribner

PHOTOGRAPHERS' COPYRIGHT LEAGUE OF AMERICA
B. J. Falk, President
Pirie MacDonald

PRINT PUBLISHERS' ASSOCIATION OF AMERICA
Albert Smith, President
W. A. Livingstone, Secretary

SOCIETY OF AMERICAN ARTISTS
John La Farge, President
John W. Alexander

THE SPHINX CLUB
Will Phillip Hooper

✓ UNITED TYPOTHETÆ OF AMERICA
Isaac H. Blanchard, of Executive Committee

In addition to the designated delegates named
above, Samuel J. Elder of Boston was present.

*Note.—These three representatives, Mr. Geo. Haven Put-
nam, Mr. B. W. Wilson, Jr., and Mr. Karl Bitter, were pre-
sented from being present at the conference; otherwise all the
associations invited (with one exception) were represented by
delegates present.

†Mr. P. H. McCormick, President, and Mr. Geo. J. Jackson,
of the New York Typographical Union No. 6, were present as
representatives of the International Typographical Union, with
Mr. J. J. Sullivan, Chairman of the Copyright Law Committee.

IN REFERENCE TO THE PROCEEDINGS.—The stenographic report in full is in the hands of the Copyright Office for its information. It is not at this time deemed necessary to print this *verbatim*. It is, however, proposed to extract from the full report and print in a systematic arrangement, for the convenience of both the Copyright Office and the associations represented at the conference, the different proposals submitted and the material considerations presented under the various points discussed.

The matter thus used it is proposed to print in some convenient form and distribute to the associations represented and the delegates present at the first conference in advance of the time fixed for the convening of the second meeting.

LIBRARY OF CONGRESS,

COPYRIGHT OFFICE.

In reply quote file

No.

WASHINGTON, D. C., September 18, 1905.

Dear Sir:-

The Librarian of Congress, who is temporarily absent from Washington, wishes me to notify you that the second Conference on Copyright has been planned to take place on November 1st and succeeding days, and to be held in New York at the rooms of the City Club, No. 55 West 44th Street.

I am hoping to send you in print a memorandum draft of the proposed Bill for the consolidation and revision of the copyright laws, at least a week in advance of this meeting and earlier if practicable. Any suggestions which may have occurred to you in regard to the proposed revision I beg to request may be sent to me at the earliest practical moment.

Respectfully,

THORVALD SOLBERG

Register of Copyrights.

Note.- This notification was sent to the 42 delegates of the first conference; to 25 officials of the associations represented (who were not also delegates), and to 6 special names as noted on the attached list.

Sept. 27 - Oct. 23, 1905.

Memorandum Draft of a Bill to amend
and consolidate the acts respecting copyrights.

Bound in separate volume.

LIBRARY OF CONGRESS
WASHINGTON

October 24, 1905.

OFFICE OF THE LIBRARIAN

October 24 1905

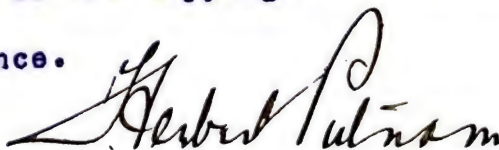
Re: The foregoing letter was sent to the 42 delegates on the printed list, and also to the ten names following:

Hon. Henry M. Wirt, Solicitor-General, Dept. of Justice.
To the Delegates Appointed
To Take Part in the Conference on Copyright

Frank P. Bond, Foster Bldg., Chicago, Ill.

The second session of the Conference on Copyright will be held at the City Club (55 West 44th Street, New York), November 1, 1905, at 11 a.m.

You will recall that at the adjournment of the first session it was agreed that the Copyright Office should draft a bill, to be considered at the second. A memorandum draft of such a bill is transmitted to you herewith for your consideration prior to the Conference, and from among the great mass of particular suggestions submitted certain ones which deal with the general theory and structure of the bill. There are added some publications of the Copyright Office which are sent as of possible assistance.



Librarian of Congress

Inclosures:

Memorandum Draft, advance copy
Revised Statutes relating to copyrights
Copyright Office Bulletin no. 9
Suggestions submitted by the Lithographers' Association

Miss Laura Sedgwick Collins,
222 W. 23d Street,
New York, N.Y.

October 24, 1905.

Note:-The foregoing letter was sent to the 42 delegates on the printed list, and also to the ten names following:

Hon. Henry M. Hoyt, Solicitor-General, Dept. of Justice.

Hon. Frederick I. Allen, Commissioner of Patents.

Frank R. Reed, Rector Bldg., Chicago, Ill.

Edmund Wetmore, 54 Pine St., Boston, Mass.

Joseph R. Grismer, 1520 Broadway, New York, N. Y.

Henry W. Mawson, 114 W. 40th St., New York, N. Y.

Charles W. Ames, c/o West Pub. Co., St. Paul, Minn.

Stephen H. Olin, 32 Nassau St., New York, N. Y.

R. L. Thomaes, Underwriters' Club, 16 Liberty St., New York N. Y.

A. W. Elson, 146 Oliver St., Boston, Mass.

Library of Congress

Copyright Office

List of Associations invited by the Librarian of Congress to take part and the delegates
nominated to be present at the Conference on Copyright,
together with other participants.

FIRST SESSION, CITY CLUB, NEW YORK, MAY 31-JUNE 2, 1905.

SECOND SESSION, CITY CLUB, NEW YORK, NOV. 1-4, 1905.

List of associations invited to take part and the delegates nominated to be present at the Conference on Copyright, together with other participants.

AUTHORS

American (Authors') Copyright League

Edmund Clarence Stedman, President
Richard R. Bowker, Vice-President
Robert Underwood Johnson, Secretary

National Institute of Arts and Letters

Edmund Clarence Stedman, President
Brander Matthews

DRAMATISTS AND PLAYWRIGHTS

American Dramatists Club

Bronson Howard, President
Joseph I. C. Clarke,¹ First Vice-President
Harry P. Mawson, Chairman, Committee on Legislation
Joseph R. Grismer,¹ Committee on Legislation

Association of Theatre Managers of Greater New York

Charles Burnham,¹ First Vice-President
Henry B. Harris,¹ Secretary

* ARTISTS: PAINTERS, SCULPTORS, ARCHITECTS

American Institute of Architects

Glenn Brown, Secretary

Architectural League of America

D. Everett Waid

National Academy of Design

Frank D. Millet

National Sculpture Society

Karl Bitter,² Vice-President

Society of American Artists

John La Farge,² President
John W. Alexander

COMPOSERS

Manuscript Society

Miss Laura Sedgwick Collins¹ (Charter Member)
F. L. Sealy²

PUBLISHERS

American Publishers' Copyright League

William W. Appleton, President
George Haven Putnam,² Secretary
Charles Scribner, Treasurer
Stephen H. Olin,² Counsel

Association of American Directory Publishers

W. H. Lee,² President
W. H. Bates, Secretary

PUBLISHERS OF NEWSPAPERS AND MAGAZINES

American Newspaper Publishers' Association

Don C. Seitz, Acting Chairman, Copyright Committee
John Stewart Bryan, Copyright Committee
Louis M. Duvall, Copyright Committee
Thos. J. Walsh,² at the request of Mr. Seitz

Periodical Publishers' Association of America

Charles Scribner

PUBLISHERS OF ARTISTIC REPRODUCTIONS: LITHOGRAPHERS, PHOTOGRAPHERS

Lithographers' Association (East)

See Reproductive Arts Copyright League, below

National Association of Photo-Engravers

B. W. Wilson, Jr.²

Photographers' Copyright League of America

B. J. Falk, President
Pirie MacDonald

Print Publishers' Association of America

Albert Smith, President
W. A. Livingstone, Secretary

Reproductive Arts Copyright League

Robert M. Donaldson, President
Edmund B. Osborne,² Vice-President
A. Beverly Smith, Secretary
Fanueil D. S. Bethune,² Counsel

A. W. Elson,² of A. W. Elson & Co., Educational art publishers of Boston

List of Associations and Delegates, etc.—Continued.

PUBLISHERS OF MUSIC

Music Publishers' Association of the United States

J. F. Bowers,² President
George W. Furniss, Chairman Copyright Committee
Walter M. Bacon, Copyright Committee
R. L. Thomae² (Victor Talking Machine Co. of Philadelphia)
Nathan Burkan,² Counsel

PRINTERS

International Typographical Union

J. J. Sullivan, Chairman I. T. U. Copyright Committee
P. H. McCormick, President, and George J. Jackson, Organizer, of New York Typographical Union No. 6

United Typothetae of America

Isaac H. Blanchard,¹ of Executive Committee
Chas. W. Ames²

EDUCATIONAL INSTITUTIONS

National Educational Association

George S. Davis,¹ Associate City Superintendent of Schools
Claude G. Leland,² Librarian Board of Education of New York

PUBLIC LIBRARIES

American Library Association

Frank P. Hill, President
Arthur E. Bostwick

MISCELLANEOUS

International Advertising Association

Will Phillip Hooper
James L. Stewart,² Counsel

The Sphinx Club

Will Phillip Hooper

LAWYERS

American Bar Association

Arthur Stewart,¹ Chairman
Edmund Wetmore²
Frank F. Reed (Prevented from attending)

American Publishers' Copyright League

Stephen H. Olin,² Counsel

International Advertising Association

James L. Stewart,² Counsel

Music Publishers' Association of the United States

Nathan Burkan,² Counsel

Reproductive Arts Copyright League

Fanueil D. S. Bethune,² Counsel

Among others present by special invitation, but not representing any particular organization, was Samuel J. Elder, Esq., of the Massachusetts bar, whose comments and suggestions were valuable and valued.

LIBRARIAN OF CONGRESS

Herbert Putnam

REGISTER OF COPYRIGHTS

Thorvald Solberg

COMMISSIONER OF PATENTS

Frederick I. Allen (Was not present, but submitted written suggestions)

TREASURY DEPARTMENT

Charles P. Montgomery, of the Customs Division

DEPARTMENT OF JUSTICE

William J. Hughes,² of the Solicitor-General's Office (Present, but not formally participating.)

NOTE.—Persons marked ¹ were present at the first session only, and those marked ² at the second session only.

MESSAGE
OF THE
PRESIDENT OF THE
UNITED STATES

COMMUNICATED TO THE
TWO HOUSES OF CONGRESS

AT THE
BEGINNING OF THE FIRST SESSION OF
THE FIFTY-NINTH CONGRESS

See p. 44



WASHINGTON
GOVERNMENT PRINTING OFFICE
1905

increased work done at a smaller cost to the Government. I urge upon the Congress a careful consideration of the recommendations contained in the annual report of the Commission.

Our copyright laws urgently need revision. They are imperfect in definition, confused and inconsistent in expression; they omit provision for many articles which, under modern reproductive

processes, are entitled to protection; they impose hardships upon the copyright proprietor which are not essential to the fair protection of the public;

they are difficult for the courts to interpret and impossible for the Copyright Office to administer with satisfaction to the public.

Attempts to improve them by amendment have been frequent, no less than twelve acts for the purpose having been passed since the Revised Statutes. To perfect them by further amendment seems impracticable. A complete revision of them is essential. Such a

revision, to meet modern conditions, has been found necessary in Germany, Austria, Sweden, and other foreign countries, and bills embodying it are pending in England and the Australian colonies. It has

been urged here, and proposals for a commission to undertake it have, from time to time, been pressed upon the Congress. The inconveniences of the present conditions being so great, an attempt to frame

appropriate legislation has been made by the Copyright Office, which has called conferences of the various interests especially and practically concerned with the operation of the copyright laws. It has

secured from them suggestions as to the changes necessary; it has added from its own experience and investigations, and it has drafted a bill which embodies such of these changes and additions as, after

full discussion and expert criticism, appeared to be sound and safe. In form this bill would replace the existing insufficient and inconsistent laws by one general copyright statute. It will be presented

to the Congress at the coming session. It deserves prompt consideration.

I recommend that a law be enacted to regulate interstate commerce in misbranded and adulterated foods, drinks, and drugs. Such

law would protect legitimate manufacture and commerce, and would tend to secure the health and welfare of the consuming public. Traffic in

foodstuffs which have been debased or adulterated so as to injure health or to deceive purchasers should be forbidden.

The law forbidding the emission of dense black or gray smoke in the city of Washington has been sustained by the courts. Something has been accomplished under it, but much remains to be

LIBRARY OF CONGRESS
WASHINGTON

OFFICE OF THE LIBRARIAN

February 24, 1906.

To the Delegates Appointed
To Take Part in the
Conference on Copyright.

It is now planned to call the third session of the
Conference on Copyright for Tuesday, March 13, 1906, at
the Library of Congress, Washington, D.C. The time of
the first meeting is set for 10:30 a.m.

It is hoped early in the coming week to send a copy
of the revised memorandum draft to each delegate parti-
cipating in the Conference. Other explanatory memoranda may

Librarian of Congress.

Note.— Copies of the above letter were sent to all delegates
(except F. L. Sealey and T. J. Walsh) making 59 in all.
Six additional copies were sent to the new committee of the Assoo.
of the Bar of the City of New York, Mr Wetmore having already
received one.

Herbert Putnam
Librarian of Congress.

F. L. Sealey and T. J. Walsh, completed and sent with letter to
a day or two.

Charles E. Hayes, Esq.
Chairman, Copyright Committee American Association of Publishers
Several copies of the Circular sent
Washington, D. C.

LIBRARY OF CONGRESS
WASHINGTON

OFFICE OF THE LIBRARIAN

March 5, 1906.

To the Delegates Appointed
To Take Part in the
Conference on Copyright.

The third session of the Conference on Copyright, as you have already been notified, will be held in the Library of Congress March 13, 1906, at 10:30 a.m.

A revised memorandum draft of the bill to amend and consolidate the copyright law is transmitted to you herewith for your consideration prior to the Conference. Other explanatory memoranda may follow.

The delegates will recall that the present memorandum draft while in the form of a bill is still but a draft for consideration. It represents, however, revision, elimination and additional suggestions, including criticism from the Department of Justice. A definite draft of the bill must await further discussion at the final session of the Conference.

Herbert Putnam, Jr.
Librarian of Congress.

P. S. Advance copy sent herewith, completed copy will follow in a day or two.

Theodore W. Noyes, Esq.,
Chairman, Copyright Committee American Newspaper Publishers'
Association, c/o The Evening Star,
Washington, D. C.

for "Revised Memorandum Draft of the Bill"

See Copyright Office Bulletin No.10, second print(in green covers).

250-28-ii-1906

LIBRARY OF CONGRESS

*To the Organizations Represented at the recent
Conference on Copyright and to be
Represented at the coming Conference, March 13:*

The memorandum embodying the revised draft has now reached you. At the first session on Tuesday next we should propose at the outset to invite each organization (briefly and without argument):

- (1) To designate by sections any provisions to which it would propose amendment *in substance*; and
- (2) To state any proposals *not* provided for in the draft, but which it still desires to urge.

In order that the above statement shall be clear and compact, we suggest that you set it down in writing and let us have a copy of it in advance. This may facilitate the arrangement of the programme.

The above course will in a measure repeat the procedure found so effective at the conference of June last. It will not prevent later criticism in detail, but will bring before the conference at the outset a prospectus of the area to be planned for.

It has not been found practicable to send out with the draft a notice of *all* the proposals heretofore submitted and not included. Many of them were in the nature of merely passing suggestions, some of which were disposed of at the moment; others of graver import have apparently been disposed of by interim discussion and conference. A few somewhat special in nature are noted on the accompanying memorandum.

The convenience of the delegates, and the interest of the measure itself, will require that the proceedings of this last conference shall be as prompt and as brief as is practicable. To this end, there will, we assume, be general agreement that the discussion shall be limited to matters of substantial concern. If the conclusions can be promptly reached, it may be feasible to secure a hearing before the Congressional Committees while the delegates are still here, and thus obviate the necessity of a later special visit to Washington for the purpose.

LIBRARIAN OF CONGRESS

WASHINGTON, D. C.,
March 6, 1906.

MEMORANDUM.

1. New subject-matter of copyright suggested not included in the provisions of the present draft:

- (a) To secure protection for telegraphic news for a brief term of hours or days, urged by the American Newspaper Publishers' Association;
- (b) To include in the articles subject to registration for copyright protection all kinds of devices to be used for mechanically reproducing music, indicated under the general designation of "sound records," submitted by Mr. R. L. Thomæ;
- (c) To enact that the copyright secured in the case of a book should extend to protect as well the "plan, system or substance of the book," submitted by Mr. Arthur Steuart, Chairman of the Copyright Committee of the American Bar Association;
- (d) To include under copyright protection architectural productions, to protect the grouping of buildings and grounds, of rooms and of ornamental features. Proposed tentatively by the American Institute of Architects. (The draft provides that "the plans, sketches and designs of architects" shall be included as subject-matter of copyright);
- (e) To include in the subject-matter of copyright "designs not of the fine arts, such as useful shapes," proposed by the Print Publishers' Association;
- (f) That copyright protection should be extended to the *title* of a work as well as to the text, submitted by Messrs. Houghton, Mifflin & Co. Same suggestion in regard to dramatic or musical compositions, submitted by the American Dramatists Club.

2. To extend the stipulation of American manufacture to all reproductions of original works of art, and explicitly to maps, charts, engravings, photogravures, cuts, prints, etchings, and labels, in addition to chromos, lithographs and photographs, and to provide that the "reproductive processes and every part thereof shall be entirely worked, done and performed within the limits of the United States," urged by the Reproductive Arts Copyright League;

(The League also proposed in support of this proposition that all copies of these articles not so made should be prohibited importation, subject, however, to the exceptions to the prohibition of importation provided in the Act of March 3, 1891.)

3. That in the classification of works subject-matter of copyright *photographs* should not stand as a separate class but should be included under original works of art or artistic reproductions, submitted by the Print Publishers' Association;

4. That Fine Arts be divided into Architecture, Painting, and Sculpture, and that a definition of each be given in the law, submitted by the American Institute of Architects;

5. That the first term of copyright be seventy-five years from time of recording title, renewable by the author or his heirs or assigns for successive terms of twenty-five years, upon payment in the case of each renewal of a fee of twenty-five dollars, submitted by Mr. Chester Bailey Fernald;

6. That the term of copyright protection shall expire on the 31st of December of the last year of the term, submitted by the American (Authors') Copyright League and the American Publishers' Copyright League;
 7. That copyright protection for a translation should extend to the full term which is provided for the original work, submitted by the American Publishers' Copyright League;
 8. That in the case of contributions to encyclopaedias, "in the absence of a specific term under which copyright control by the contributor is assigned to the publisher, ... the term should be for not less than five years," submitted by the American Publishers' Copyright League;
 9. That in the case of contributions to periodicals the period of control by the publisher, unless otherwise provided, shall be for a term of three years, after which copyright for the full term shall revert to the author, submitted by the American (Authors') Copyright League;
 10. That in the case of a book an affidavit should be filed showing the date of sending the title and two copies, date of publication, and declaring that no copies were sold or offered for sale before such date of publication, submitted by Mr. C. W. Ames;
 11. To abolish the requirement of a written description in the case of a work of the fine arts in order to validate the copyright, submitted by the Print Publishers' Association; Committee of the Fine Arts Federation; National Institute of Arts and Letters;
 12. That it should be obligatory to put upon the title-page of every work the date of first publication, submitted by Mr. William Everett.
 13. That an additional notice should be required for each kind of reproduction authorized in the case of original works of art, submitted by the Reproductive Arts Copyright League;
 14. That copyright should determine in the case of any work becoming the public property of a state or municipality, submitted by the Reproductive Arts Copyright League;
 15. To include in the copyright law, to protect the publishers of directories, provisions for a special guarantee on the part of publishers proposing competing directories, submitted by the Association of American Directory Publishers;
 16. That the term of limitation of action should be extended to six years, submitted by the Music Publishers' Association and the Print Publishers' Association;
 17. To lodge in the judge before whom a copyright suit is tried power to increase or to diminish the damages awarded by the jury, and power to determine whether the plates or blocks from which unlawful copies of a copyrighted work were made shall be forfeited to the owner of the copyright or destroyed, submitted by the Reproductive Arts Copyright League;
 18. That piracy should include the reproduction of a work of art in a work of architecture, industry or manufacture; the reproduction either by the author or publisher contrary to the contract binding them; or the production by the publisher of a greater number of copies than he has a right to publish either by law or contract, submitted by the Print Publishers' Association;
 19. To provide a special penalty of one thousand dollars per copy for making a reproduction of a work of art "by a method substantially the same as that used in making the original," this penalty to be applicable in the case of any painting, drawing, etching, engraving, statue, statuary, or any model or design intended to be perfected as a work of the fine arts, submitted by the Reproductive Arts Copyright League;
 20. To include provisions making any of the following a *misdemeanor*:
 - (a) To remove the notice of copyright, submitted by the Reproductive Arts Copyright League;
 - (b) To unlawfully reproduce any unpublished musical composition, submitted by the Music Publishers' Association;
 - (c) To make without authorization sound records or other mechanical devices for reproducing copyright music, submitted by the Music Publishers' Association;
 - (d) To reproduce unlawfully, willfully and for gain, an unpublished work or to offer unlawful copies of a copyright work for sale, submitted by Mr. R. R. Bowker.
- (The retention of the *misdemeanor* clause in the present law was urged, whereas in the text of the penalty provisions submitted by the Solicitor-General the misdemeanor clause of the Act of January 6, 1897, was stricken out. In the present draft it is included within brackets.)

MAR. 26 1906

Copies of this list were sent out to the 87 names on this list and to those persons enumerated on the back of the list.

Library of Congress

Copyright Office

List of associations invited by the Librarian of Congress to take part and the delegates nominated to be present at the Conference on Copyright,
together with other participants

FIRST SESSION. CITY CLUB, NEW YORK. MAY 31-JUNE 2, 1905

SECOND SESSION. CITY CLUB, NEW YORK. NOV. 1-4, 1905

THIRD SESSION. LIBRARY OF CONGRESS, WASHINGTON, D. C., MAR. 13-16, 1906

List of associations invited to take part and the delegates nominated to be present at the Conference on Copyright, together with other participants.

AUTHORS

American (Authors') Copyright League

Edmund Clarence Stedman^{1, 2}, President
Richard R. Bowker, Vice-President
Robert Underwood Johnson^{1, 2}, Secretary
Edmund Munroe Smith, Acting Secretary
(Not present)

National Institute of Arts and Letters

Edmund Clarence Stedman^{1, 2}, President
Brazder Matthews^{1, 2}

DRAMATISTS AND PLAYWRIGHTS

American Dramatists Club

Bronson Howard, President
Joseph L. C. Clarke¹, First Vice-President

Harry P. Mawson^{1, 2}, Chairman, Committee
on Legislation

Joseph R. Grismer¹, Committee on Legislation
Charles Klein¹ *Recording Secretary*

Association of Theatre Managers of Greater New York

Charles Barnham¹, First Vice-President
Henry B. Harris¹, Secretary

ARTISTS: PAINTERS, SCULPTORS, ARCHITECTS

American Institute of Architects

Glenn Brown, Secretary

Architectural League of America

D. Everett Waid^{1, 2}

National Academy of Design

Frank D. Millet

National Sculpture Society

Daniel Chester French¹, President
Karl Bitter^{1, 2}, Vice-President

Society of American Artists

John La Farge¹, President
John W. Alexander^{1, 2}

COMPOSERS

Manuscript Society

Miss Laura Sedgwick Collins¹ (Charter Member)
F. L. Sealy¹

PUBLISHERS

American Publishers' Copyright League

William W. Appleton, President
George Haven Putnam^{1, 2}, Secretary
Charles Scribner^{1, 2}, Treasurer
Stephen H. Olin^{1, 2}, Counsel

Association of American Directory Publishers

W. H. Lee^{1, 2}, President
W. H. Bates, Secretary
Alfred Lucking¹, Counsel
Everett S. Geer¹, President, Hartford Printing Co.
William E. Murdock¹, Trustee of the Ass'n of Amer. Directory Publishers
Ralph L. Polk¹, Trustee of the Ass'n of Amer. Directory Publishers
S. T. Leet¹

PUBLISHERS OF NEWSPAPERS AND MAGAZINES

American Newspaper Publishers' Association

Don C. Seitz^{1, 2}, Acting Chairman, Copyright Committee
John Stewart Bryan^{1, 2}, Copyright Committee
Louis M. Duvall^{1, 2}, Copyright Committee
Thos. J. Walsh¹, at the request of Mr. Seitz

Periodical Publishers' Association of America

Charles Scribner^{1, 2}

PUBLISHERS OF ARTISTIC REPRODUCTIONS:

LITHOGRAPHERS, PHOTOGRAPHERS

National Association of Photo-Engravers

B. W. Wilson, Jr.²

Photographers' Copyright League of America

B. J. Falk, President
Pirie MacDonald
A. B. Browne¹, Counsel

Print Publishers' Association of America

W. A. Livingstone, President
Benjamin Curtis¹, Secretary
George L. Canfield¹, Counsel

Reproductive Arts Copyright League

(Lithographers' Association (East))

Robert M. Donaldson, President
Edmund B. Osborne¹, Vice-President
A. Beverly Smith, Secretary
Fanueil D. S. Bethune^{1, 2}, Counsel

LIST OF ASSOCIATES AND DELEGATES, ETC.—Continued.

PUBLISHERS OF MUSIC

Music Publishers' Association of the United States

J. E. Downer¹, President
 Charles J. Hoff¹, Secretary
 George V. Furness, Chairman Copyright Com-
 mittee
 Victor W. Bacon, of Copyright Committee
 Herman Burkart¹, Counsel
 A. E. Smith¹, Counsel

Leo Felt²
 Selmer Witmark²

R. L. Tramma², Victor Talking Machine
 Co. of Philadelphia

PRINTERS AND LITHOGRAPHERS

United Typographers of America

Leon H. Blanchard¹, of Executive Committee
 Chas. W. Ames²

International Typographical Union

J. J. Sullivan, Chairman I. T. U. Copyright
 Committee
 P. H. McCormick, President, and George J.
 Jackson, Organizer, of New York Typo-
 graphical Union No. 6

United Typographers of America
Central Lithographic Trades Council

W. A. Conkley²

EDUCATIONAL INSTITUTIONS

National Educational Association

George S. Harris¹, Associate City Superintend-
 ent of Schools
 Claude G. Leland², Librarian Board of Edu-
 cation of New York

PUBLIC LIBRARIES

American Library Association

Frank P. Mill, President
 Arthur H. Restock

BAR ASSOCIATIONS

American Bar Association

Advisory Committee

Arthur Stoughton¹, Chairman
 Edmund Weenore¹
 Frank F. Reed¹ (Not present)

Association of the Bar of the City of New York

Advisory Committee

Paul Fuller¹, Chairman
 William G. Choate
 John F. Parsons
 John L. Cadwalader
 Edmund Weenore¹
 Henry Gallatin Ward
 Arthur H. Mason

(Of this Committee, appointed after the
 second conference, only Mr. Fuller was
 present)

MISCELLANEOUS

International Advertising Association

Will Phillip Hooper¹,
 James L. Stewart¹, Counsel

The Sphinx Club

Will Phillip Hooper¹

OTHERS PRESENT BUT NOT FORMALLY PARTICIPATING

Samuel J. Elder, of Boston; André Lesourd¹, of ~~New York~~^{Pasadena}; A. Bell Malcomson¹, of New York; Ansley Wilcox¹,
 of Buffalo; A. W. Elson¹, of Boston; General Eugene Griffin¹, of New York;
 Charles H. Sengel¹, of Chicago.

LIBRARIAN OF CONGRESS

Herbert Putnam

REGISTER OF COPYRIGHTS

Thorvald Solberg

COMMISSIONER OF PATENTS

Frederick I. Allen (Was not present, but sub-

mitted written suggestions)

DEPARTMENT OF JUSTICE

Henry M. Hoyt¹, Solicitor-General (Present,
 but not formally participating)
 William J. Hughes¹, of the Solicitor-General's
 Office (Present, but not formally participating)

TREASURY DEPARTMENT

Charles P. Montgomery, of the Customs Division

NOTE.—Persons marked 1, 2, or 3 were present only at the sessions thus indicated. The absence of a mark following a name
 indicates attendance at all three sessions.

Additional list.

MAR. 26 1906

Dr. J. C. Billings,
Director, New York Public Library,
New York, N.Y.

Hiller Crowell Wellman, Esq.,
Librarian, City Library,
Springfield, Mass.

William P. Cutter, Esq.,
Librarian, Forbes Library,
Northampton, Mass.

6 sent up to the Librarian

Frederick Morgan Crunden, Esq.,
Librarian, Public Library,
St. Louis, Mo.

W. P. Garrison, Esq.,
208 Broadway,
New York, N.Y.

A. T. Gurlitz, Esq.,
80 Broadway,
New York, N.Y.

Dr. Edward Everett Hale,
U. S. Senate,
Washington, D.C.

W
Wilton Lackaye, Esq.,
Lambs Club, 70 W. 36th St.,
New York, N.Y.

John Winthrop Loveland, Esq.,
111 Broadway,
New York, N.Y.

J. M. Lynch, Esq.,
President, International Typographical Union,
Newton Claypool Building,
Indianapolis, Ind.

Theodore Noyes, Esq.,
C/o The Evening Star,
Washington, D.C.

Charles G. Phelps, Esq.,
523 Bond Building,
Washington, D.C.

Mr. Henry A. Strohmeyer,
C/o Messrs. Underwood and Underwood,
19th and 5th Ave.,
New York, N.Y.

Horace G. Wadlin, Esq.,
Librarian, Public Library,
Boston, Mass.

Library of Congress,

Copyright Office.

April 17, 1906.

The enclosed copy of the importation clauses of the proposed Copyright bill, is sent to each member of the American Library Association at the request of the Executive Board and of Messrs. Hill and Bostwick, delegates of the Association at the recent conferences on Copyright.

The passages embraced in marginal lines are those supposed to be of particular concern to libraries.

Thorvald Solberg
Register of Copyrights.

"Importation clauses" of the proposed Copyright bill.
(*As under consideration, March 17, 1906.*)

SEC. 34. That any person who willfully and for profit shall infringe the copyright secured by this Act shall be guilty of a misdemeanor, and, upon conviction, be imprisoned for a period not exceeding one year.

Any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this Act, or words of the same purport, in or upon any article for which he has not obtained copyright, or with fraudulent intent shall remove or alter the copyright notice upon an article duly copyrighted, shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars and not over one thousand dollars. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice, or words of the same purport, which has not been copyrighted in the United States, shall be liable to a fine of one hundred dollars.

The importation into the United States of any article bearing such notice of copyright when there is no existing copyright thereon in the United States is prohibited, and such importations shall be proceeded against as provided by sections thirty-six to thirty-nine, inclusive, of this Act.

SEC. 35. That during the existence of the copyright in any book or other work, any copy in whole or in part, or any translation, abridgment, adaptation, or dramatization thereof, or any artistic or other reproduction of any kind whatsoever, or any arrangement or reproduction of a musical composition, produced without the authorization of the copyright proprietor, shall be considered fraudulent and illegal and is hereby prohibited. As to all such copies, translations, abridgments, adaptations, dramatizations, arrangements or reproductions of any such book or other article, the provisions of section thirty-eight hundred and ninety-three of the Revised Statutes, prohibiting the use of the mails in certain cases, and also the provision of section thirty-eight hundred and ninety-five of the Revised Statutes, shall apply, and the importation into the United States of any such fraudulent copies or reproductions is hereby prohibited.

SEC. 36. That any and all such fraudulent copies prohibited importation by this Act, which are brought into the United States from any foreign country, by any means whatsoever, shall be seized by the collector, surveyor or other officer of the customs, or any person authorized in writing to make seizures under the customs revenue laws, in the district in which they are found; and the copies so seized shall without delay be delivered into the custody of the principal customs officer of the collection district in which the seizure is made; whereupon the said officer shall (except in cases of importation by mail)

publish a notice once a week for three successive weeks in some newspaper of the county or place where such seizure shall have been made. If no newspaper is published in such county, then such notice shall be published in some newspaper of the county in which the principal customs office of the district is situated; and if no newspaper is published in such county, then notices shall be posted in proper public places, which notices shall describe the articles seized and state the time, cause, and place of seizure, and shall require any person claiming such articles to appear and file with such customs officer his claim to such articles within twenty days from the date of the first publication of such notice.

SEC. 37. That any person claiming the property so seized may, at any time within twenty days from the date of such first publication of notice, file with the collector, or other proper officer, a claim, stating his interest in the articles seized, and deposit with such collector, or other proper officer, a bond to the United States as now prescribed by law, in the penal sum of two hundred and fifty dollars, with two sureties, to be approved by said collector, or other proper officer, conditioned that in case of the condemnation of the articles so claimed the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation.

Such collector, or other proper officer, shall transmit the said bond with a duplicate list and description of the articles seized and claimed to the United States Attorney for the proper district, who shall proceed for a condemnation of the property by information as in customs revenue cases.

SEC. 38. That in case the property shall be condemned it shall be delivered into the custody of the United States Marshal and destroyed in such manner as the court may direct. If not condemned the said articles shall be delivered to the importer on payment of the duty, if any be due. The burden of proof shall be on the claimant of the property. If reasonable cause is found by the court as an existing fact connected with the seizure, the officer or other person making the seizure shall be entitled to a certificate affording him an absolute defense to any action on account of the seizure. If no such claim shall be filed, or bond given, within the twenty days above specified, the collector, or other proper officer of the customs who has custody of the property, shall declare the same forfeited, and it shall be destroyed in such manner as shall be prescribed by the Secretary of the Treasury.

SEC. 39. That mails from foreign countries shall be carefully examined by postmasters, who shall forward to the principal customs officer of the district in which the post office is situated any foreign mail package supposed to contain any article imported in violation of the provisions of this Act. Upon receipt of such package the customs officer shall detain the same in his custody and notify by mail the addressee of the package of its detention, and require him to show cause within thirty days why

the supposed prohibited articles should not be destroyed. If the person so addressed shall not appear and show cause to the contrary, the customs officer shall make formal seizure of the articles contained in the package supposed to be prohibited importation, and if the package contains any prohibited articles shall declare the same forfeited, whereupon said articles shall be destroyed in such manner as the Secretary of the Treasury shall direct. If the addressee appears and shows to the satisfaction of the said officer that the importation of the articles is not prohibited, the said articles shall be delivered to the addressee upon payment of the customs duty, if any be due.

SEC. 40. That, subject to the provisions of section forty-one herein, the importation, without the written consent of the proprietor of the American copyright, of foreign reprints, although authorized, of works by American authors first published and copyrighted in the United States shall be prohibited, unless agreement permitting importation is entered into between the American copyright proprietor and his foreign assignee or licensee, and the copies imported bear upon the cover or title-page, or the reverse of the title-page, a notice that their importation into the United States is authorized.

SEC. 41. That during the existence of the American copyright in any book the importation into the United States of any foreign edition or editions thereof (although authorized by the author or proprietor) not printed from type set within the limits of the United States or from plates made therefrom, or any plates of the same not made from type set within the limits of the United States, or any editions thereof produced by lithographic process not wholly performed within the limits of the United States, in accordance with the requirements of section eleven of this Act, shall be and is hereby prohibited: *Provided, however,* That such prohibition shall not apply—

(a) To works in raised characters for the use of the blind;

(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization;

(c) To the authorized edition of a book in a foreign language or languages, of which only a translation into English has been copyrighted in this country;

(d) To books in a foreign language or languages, published without the limits of the United States, but deposited and registered for an *ad interim* copyright under the provisions of this Act: in which case the importation of copies of an authorized foreign edition shall be permitted during the *ad interim* term of two years, or until such time within this period as

an edition shall have been produced from type set within the limits of the United States, or from plates made therefrom, or by a lithographic process performed therein as above provided;

(e) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four sub-divisions following:

(1) When imported, not more than one copy at one time, for use and not for sale, under permission given by the proprietor of the American copyright;

(2) When imported, not more than one copy at one time, by the authority or for the use of the United States;

(3) When specially imported, for use and not for sale, not more than one copy of any such book in any one invoice, in good faith, by or for any society or institution incorporated for educational, literary, philosophical, scientific or religious purposes, or for the encouragement of the fine arts, or for any college, academy, school or seminary of learning, or for any State, school, college, university or free public library in the United States: but such privilege of importation without the consent of the American copyright proprietor shall not extend to a foreign reprint of a book by an American author copyrighted in the United States unless copies of the American edition can not be supplied by the American publisher or copyright proprietor;

(4) When such books form parts of libraries or collections purchased *en bloc* for the use of societies, institutions or libraries designated in the foregoing paragraph; or form parts of libraries or of the personal baggage belonging to persons arriving from foreign countries, and are not intended for sale.

Provided, That copies imported as above may not lawfully be used in any way to violate the rights of the American copyright proprietor or annul or limit the copyright protection secured by this Act; and such unlawful use shall be deemed an infringement of copyright.

SEC. 42. That all copies of authorized editions of copyright books imported in violation of the above provisions of this Act may be exported and returned to the country of export, provided it be shown to the satisfaction of the Secretary of the Treasury upon written application that such importation does not involve willful negligence or fraud. If absence of willful negligence or fraud be not established to the satisfaction of the Secretary of the Treasury, the importation shall be proceeded against in the case of fraudulent copies in the manner prescribed by sections thirty-six to thirty-nine, inclusive, of this Act.

Library of Congress

WASHINGTON, D. C., May 18, 1906.

To the Participants in the Recent Conferences

on a Revision and Consolidation of the Copyright Laws:

The enclosed circular expresses the opinion of this Office as to the course which should be taken with the draft now in hand. On adjournment in March it was agreed that no further general Conference was to be held unless there should be a general request for one. The Office would, however, favor a special meeting of the participants on the day preceding the first hearing before the House Committee; and suggests that this be held at the Library at 10.30 o'clock of the morning preceding.

In the prospect of this it may suggest to the Committee a Wednesday instead of a Tuesday as more convenient for the hearing itself.

The week of June 4th was proposed upon the assumption that the bill would be ready for introduction prior to that date. Should this estimate prove incorrect, a delay will be suggested to the week beginning June 11th. The earlier date would, however, in several respects be more favorable; and the later might involve a risk of adjournment of Congress itself, or at least the excessive pressure of the final days of the session.

Thorwald Solberg
Register of Copyrights.

Herbert Putnam
Librarian of Congress.

Library of Congress.

WASHINGTON, D. C., May 18th, 1906.

To the Participants in the Recent Conferences

on a Revision of the Copyright Law:

There is sent to you herewith a copy of the draft which it is proposed shall be introduced into the Senate and House of Representatives as a bill resulting from the Conferences. You are requested to give it your immediate examination, and also to communicate to the Copyright Office immediately any suggestions you have to make concerning it.

No bill can be passed at this session, but we are advised that to have standing at the next session the bill must be introduced, and at least one hearing be had at this one. The House Committee is ready to arrange for a hearing within the week beginning June 4. To meet this date, the bill should be introduced within the week preceding.

You are therefore requested:

1. To have your suggestions reach the Copyright Office not later than May 28, and as much earlier as possible;

2. To be cautious in suggestion, remembering the various and lengthy discussions already had, the impossibility of absolute agreement, and the necessity for action;

3. If you have suggestions, to communicate them through your legal counsel. This course is particularly desirable where the question is as to the legal effect of particular phraseology, or as to whether a particular intent is sufficiently covered by the phraseology employed. The draft has been formulated with the aid of the general legal counsel whose advice has been

available, in particular the Advisory Committees of the American Bar Association and of the Bar Association of the City of New York. If certain provisions familiar at the Conferences have been dropped, it is upon the advice of these counsel that they were either unnecessary, or inexpedient from a legal standpoint, or in other ways calculated rather to frustrate than to promote the intentions of the Conference. The latter consideration has applied particularly to specifications of detail, general provisions being thought safer, and also in the interest of the brevity which is important.

In attempting to meet the general intentions of the Conference for a statute that will ameliorate present conditions and yet stand legal criticism and be safe from the charge of departing too radically from the principles underlying existing legislation—the draft may in some respect disappoint every participating interest. But it appears to represent the best that can be accomplished at this stage, with the safest judgment available.

Thorwald Solberg
Register of Copyrights.

Harold Putnam
Librarian of Congress.

NOTICE FOR FIRST HEARINGS, JUNE 6-9, 1906.

LIBRARY OF CONGRESS
WASHINGTON

OFFICE OF THE LIBRARIAN

May 29, 1906.

To the Participants in the recent Conferences on Copyright

and such other Persons as may be interested:

The copyright bill will be introduced on Thursday of this week, May 31st, and will be promptly printed for distribution. The first hearing by the Committee will be given on Wednesday next, June 6, at 10 A. M.—at the Library building, if this can be arranged. An informal meeting of the participants in the copyright conferences will be held at the Library at 4 o'clock on the afternoon preceding the hearing. At that meeting procedure before the Committee can be determined. If there be any proposals as to which any participant desires specially to be heard by the Committee, these should, for convenience, be notified to the Copyright Office in advance.

Thorwald Solberg
Register of Copyrights.

Herbert Putnam
Librarian of Congress.

LIBRARY OF CONGRESS
WASHINGTON

OFFICE OF THE LIBRARIAN

May 31, 1906.

*To the Participants in the recent Conferences on Copyright
and such other Persons as may be interested:*

The copyright bill was introduced in both Houses of Congress today. A copy goes with this circular to every participant and every other person who has made request for it of the Copyright Office. Some further copies are at the disposal of the Copyright Office, and others may be had by addressing the Chairman of the Senate Committee on Patents.

The first hearing on the bill will be given on Wednesday next, June 6, at 10 o'clock, in the Senate Reading Room at the Library of Congress. It will be public.

The hearing will be by the Senate and House Committees sitting as a joint committee. This method of procedure has been arranged for the convenience of the numerous participants and others who may be interested, and in recognition of the unusual character and importance of the bill. The courtesy and consideration of these arrangements on the part of the Committees will doubtless be recognized by an ample representation at the hearing.

It is especially desirable that the fullest representation of participants shall be secured at the outset when the bill is presented, explained and supported, as may be arranged at the informal meeting on Tuesday, June 5. This latter meeting will be held at 4 P. M. at the Library of Congress.

Thorwald Solberg
Register of Copyrights.

Herbert Putnam
Librarian of Congress.

A BILL
TO AMEND AND CONSOLIDATE THE ACTS
RESPECTING COPYRIGHT.

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INTRODUCED, 59TH CONGRESS, 1ST SESSION,

THURSDAY, MAY 31, 1906.

SENATE.—Hon. Albert B. Kittredge, Chairman, Senate Committee on Patents. Referred to that Committee, and printed as Senate bill no. 6330.

HOUSE OF REPRESENTATIVES.—Hon. Frank D. Currier, Chairman, House Committee on Patents. Referred to that Committee, and printed as H. R. bill no. 19853.

A B I L L

TO AMEND AND CONSOLIDATE THE ACTS RESPECTING COPYRIGHT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the copyright secured by this Act shall include the sole and exclusive right:—

Nature and Extent of Copyright.

(a) For the purposes set forth in subsection (b) hereof, to make any copy of any work or part thereof the subject of copyright under the provisions of this Act, or to abridge, adapt, or translate into another language or dialect any such work, or make any other version thereof;

(b) To sell, distribute, exhibit or let for hire, or offer or keep for sale, distribution, exhibition, or hire any copy of such work;

(c) To deliver, or authorize the delivery of, in public for profit, any copyrighted lecture, sermon, address, or similar production prepared for oral delivery;

(d) To publicly perform or represent a copyrighted dramatic work, or to convert it into a novel or other non-dramatic work;

(e) To dramatize any copyrighted non-dramatic work and produce the same either by publication or performance;

(f) To publicly perform a copyrighted musical work, or any part thereof, or for purpose of public performance or the purposes set forth in subsection (b) hereof to make any arrangement or setting of such work, or of the melody thereof, in any system of notation;

(g) To make, sell, distribute or let for hire any device, contrivance or appliance especially adapted in any manner whatsoever to reproduce to the ear the whole or any material part of any work pub-

lished and copyrighted after this Act shall have gone into effect, or by means of any such device or appliance publicly to reproduce to the ear the whole or any material part of such work;

(h) To produce any abridgment, variation, adaptation, or arrangement of a copyrighted work of art.

SEC. 2. That nothing in this Act shall be construed to annul or limit the right of the author or proprietor of an unpublished work, at common law or in equity, to prevent the copying, publication, or use of such unpublished work without his consent, or to obtain damages therefor.

SEC. 3. That the copyright provided by this Act shall extend to and protect all the copyrightable component parts of the work copyrighted, any and all reproductions or copies thereof, in whatever form, style or size, and all matter reproduced therein in which copyright is already subsisting, but without extending the duration of such copyright.

Subject Matter of Copyright.

Comp. Constitution, Art. 1, sec. 8; Rev. Stat., sec. 4952.

SEC. 4. That the works for which copyright may be secured under this Act shall include all the works of an author.

SEC. 5. That the application for registration shall specify to which of the following classes the work in which copyright is claimed belongs:

(a) Books, including composite and cyclopædic works, directories, gazetteers, and other compilations, and new matter contained in new editions; but not including works specified in other subsections hereunder;

(b) Periodicals, including newspapers;

(c) Oral lectures, sermons, addresses;

(d) Dramatic compositions;

(e) Musical compositions;

(f) Maps;

(g) Works of art; models or designs for works of art;

(h) Reproductions of a work of art;

(i) Drawings or plastic works of a scientific or technical character;

(j) Photographs;

(k) Prints and pictorial illustrations;

(l) Labels and prints relating to articles of manufacture, as heretofore registered in the Patent Office under the Act of June 18, 1874:

Provided, nevertheless, That the above specifications shall not be held to limit the subject matter of copyright as defined in section four of this Act, nor shall any error in classification invalidate or impair the copyright protection secured under this Act.

Sec. 6. That additions to copyrighted works and alterations, revisions, abridgments, dramatizations, translations, compilations, arrangements, or other versions of works, whether copyrighted or in the public domain, shall be regarded as new works subject to copyright under the provisions of this Act; but no such copyright shall affect the force or validity of any subsisting copyright upon the matter employed or any part thereof, or be construed to grant an exclusive right to such use of the original works.

Sec. 7. That no copyright shall subsist:—

(a) In any publication of the United States government or any reprint, in whole or in part, thereof: *Provided, however,* That the publication or republication by the government, either separately or in a public document, of any material in which copyright is subsisting shall not be taken to cause any abridgment or annulment of the copyright or to authorize any use or appropriation of such copyright material, without the consent of the copyright proprietor;

(b) In the original text of a work by any author not a citizen of the United States first published without the limits of the United States prior to July first, eighteen hundred and ninety-one; or in the original text of any work which has fallen into the public domain.

Sec. 8. That the author or proprietor of any work made the subject of copyright by this Act, or his executors, administrators, or assigns, shall have copyright for such work under the conditions and for the terms specified in this Act: *Provided, however,* That the copyright secured by this Act shall extend to the work of an author or pro-

Comp. Act of June 18, 1874, sec. 3 (18 Stat. at L., part III, p. 79)

Comp. Rev. Stat., sec. 4959; Act of March 3, 1891, sec. 5 (26 Stat. at L., p. 1108).

Not subject
matter of copy-
right.

Who May Obtain Copyright.

Comp. Constitution, 1787, Art. I, sec. 8; Rev. Stat., sec. 4952; Act of March 3, 1891, sec. 13 (26 Stat. at L., p. 1110).

prietor who is a citizen or subject of a foreign state or nation, only when such foreign author or proprietor,—

(a) Shall be living within the United States at the time of the making and first publication of his work, or shall first or contemporaneously publish his work within the limits of the United States; or

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants—either by treaty, convention, agreement, or law—to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may at its pleasure become a party thereto.

The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this Act may require.

How to Secure Copyright.

SEC. 9. That any person entitled thereto by this Act may secure copyright for his work by publication thereof with the notice of copyright required by this Act; and such notice shall be affixed to each copy thereof published or offered for sale in the United States by authority of the copyright proprietor. In the case of a work of art or a plastic work or drawing, such notice shall be affixed to the original also before publication thereof. In the case of a lecture or similar work intended only for oral delivery, notice of copyright shall be given at each public delivery thereof.

SEC. 10. That such person may obtain registration of his claim to copyright by complying with the requirements prescribed in this Act; and such registration shall be *primâ facie* evidence of ownership.

Registration may also be had of works of which copies are not reproduced for sale, by the deposit, with claim of copyright, of the title and one complete printed or manuscript copy of such work, if it be a lecture or similar production, or a dramatic or musical composition; of a

photographic print, if the work be a photograph; or of a photograph or other identifying reproduction thereof, if it be a work of art, or a plastic work or drawing; the notice of copyright in these latter cases being affixed to the original before publication as required by section nine above. But the privilege of registration secured hereunder shall not exempt the copyright proprietor from the requirement of deposit of copies under section eleven herein where the work is later reproduced in copies for sale.

SEC. 11. That not later than thirty days (but in the case of a periodical not later than ten days) after the publication of the work upon which copyright is claimed, there shall be deposited in the Copyright Office or in the United States mail addressed to the Register of Copyrights, Washington, District of Columbia, two complete copies of the best edition; or if the work be a label or print relating to an article of manufacture, one such copy; or if a contribution to a periodical for which contribution special registration is requested, one copy of the issue or issues of the periodical containing such contribution, to be deposited not later than ten days after publication; or if the work is not reproduced in copies for sale, there shall be deposited the copy, print, photograph or other identifying reproduction required by section ten above: such copies or copy, print, photograph or other reproduction to be accompanied in each case by a claim of copyright.

SEC. 12. That the postmaster to whom are delivered the articles required to be deposited under section eleven above shall, if requested, give a receipt therefor; and shall mail them to their destination without cost to the copyright claimant.

SEC. 13. That of a printed book or periodical the text of the copies deposited under section eleven above shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of type-setting machine, or from plates made from type set within the limits of the United States, or if the text be produced by lithographic process, then by a process wholly performed within the limits of the United States: which requirements shall extend also to the illustrations pro-

Comp. Rev. Stat., sec. 4956, as amended by the Act of March 3, 1891, sec. 3 (26 Stat. at L., p. 1107).

Comp. Rev. Stat., sec. 4961.

U. S. type-setting and lithographic process.

Comp. Act of March 3, 1891, sec. 3 (26 Stat. at L., p. 1107); H. R. bill no. 13355, March 2, 1904, passed by the House of Representatives April 26, 1904 (58th Cong., 2d sess.).

duced by lithographic process within a printed book consisting of text and illustrations, and also to separate lithographs, except where in either case the subjects represented are located in a foreign country; but they shall not apply to works in raised characters for the use of the blind, and they shall be subject to the provisions of section sixteen with reference to books published abroad seeking *ad interim* protection under this Act.

In the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal of any officer authorized to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorized agent or representative residing in the United States or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made from type set within the limits of the United States, or, if the text be produced by lithographic process, that such process was wholly performed within the limits of the United States.

Any person who for the purpose of obtaining a copyright shall knowingly be guilty of making a false affidavit as to his having complied with the above conditions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, and all of his rights and privileges under said copyright shall thereafter be forfeited.

Such affidavit shall state also the place within the United States, and the establishment, in which such type was set or plates were made or lithographic process was performed and the date of the completion of the printing of the book or the date of publication.

SEC. 14. That the notice of copyright required by section nine shall consist either of the word "*Copyright*" or the abbreviation "*Copr.*" or, in the case of any of the works specified in sub-sections (f) to (l) inclusive, of section five of this Act, the letter *C* enclosed within a circle, thus: ©, accompanied in every case by the name of the author or copyright proprietor as registered in the Copyright Office; or, in the case of works specified in subsections (f) to (l), inclusive, of section five of this Act, by his initials, monogram, mark, or symbol, pro-

Comp. Act of March 3, 1905.

Notice of copy-
right.

Comp. Rev. Stat., sec., 4962; Act of June 18, 1874, sec. 1 (18 Stat. at L., part III, p. 79); Act of March 3, 1905.

vided that on some accessible portion of the work or of the margin, back, permanent base or pedestal thereof or of the substance on which the work shall be mounted his name shall appear. But in the case of works in which copyright is subsisting when this Act shall go into effect the notice of copyright may be either in one of the forms prescribed herein or in one of those prescribed by the Act of June 18, 1874.

The notice of copyright shall be applied, in the case of a book or other printed publication, upon its title-page or the page immediately following, or if a periodical, either upon the title-page or upon the first page of text of each separate number or under the title heading; or if a work specified in subsections (f) to (l), inclusive, of section five of this Act, upon some accessible portion of the work itself or of the margin, back, permanent base or pedestal thereof, or of the substance on which the work shall be mounted.

In a composite work one notice of copyright shall suffice.

Upon every copy of a published musical composition in which the right of public performance is reserved there shall be imprinted under the notice of copyright the words "Right of public performance reserved;" in default of which no action shall be maintained nor recovery be had for any such performance although without the consent of the copyright proprietor.

SEC. 15. That if, by reason of any error or omission, the requirements prescribed above in section eleven have not been complied with within the time therein specified, or if failure to make registration has occurred by the error or omission of any administrative officer or employee of the United States, it shall be permissible for the author or proprietor to make the required deposit and secure the necessary registration within a period of one year after the first publication of the work: *Provided*, That in such case no action shall be brought for infringement of the copyright until such requirements have been fully complied with: *And provided further*, That the privilege above afforded of completing the registration and deposit after the expiration of the period prescribed in section eleven shall not exempt the proprie-

Failure to comply with formalities.

Comp. Rev. Stat., sec. 4962.

Comp. Act of March 3, 1865, sec. 3 (13 Stat. at L., p. 540).

tor of any article which bears a notice of copyright from depositing the required copy or copies upon specific written demand therefor by the Register of Copyrights, who may make such demand at any time subsequent to the expiration of such period; and after the said demand shall have been made, in default of the deposit of the copies of the work within one month from any part of the United States except an outlying territorial possession of the United States, or within three months from any outlying territorial possession of the United States or from any foreign country, the proprietor of the copyright shall be liable to a fine of one hundred dollars.

Where the copyright proprietor has sought to comply with the requirements of this Act as to notice and the notice has been duly affixed to the bulk of the edition published, its omission by inadvertence from a particular copy or copies, though preventing recourse against an innocent infringer without notice, shall not invalidate the copyright nor prevent recovery for infringement against any person who after actual notification of the copyright begins an undertaking to infringe it.

Ad interim protection.

Comp. Act of March 3, 1905.

SEC. 16. That in the case of a book published in a foreign country before publication in this country the deposit in the Copyright Office not later than thirty days after its publication abroad of one complete copy of the foreign edition with a request for the reservation of the copyright, and a statement of the name and nationality of the author and of the copyright proprietor, and of the date of publication of the said book shall secure to the author or proprietor an *ad interim* copyright. Except as otherwise provided, the *ad interim* copyright thus secured shall have all the force and effect given to copyright by this Act, and shall endure as follows:—

(a) In the case of a book printed abroad in a *foreign* language, for a period of two years after the first publication of the book in the foreign country;

(b) In the case of a book printed abroad in the *English* language or in English and one or more foreign languages, for a period of thirty days after such deposit in the Copyright Office.

SEC. 17. That whenever within the period of such *ad interim* protection an authorized edition shall be produced

and published from type set within the limits of the United States or from plates made therefrom, (a) of a book in the *English* language, or (b) of a book in a *foreign* language, either in the original language or in an English translation thereof, and whenever the requirements prescribed by this Act as to deposit of copies, registration, filing of affidavit and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such original book for the full terms elsewhere provided in this Act.

SEC. 18. That the copyright secured by this Act shall endure,—

(a) For *twenty-eight* years after the date of first publication in the case of any print or label relating to articles of manufacture: *Provided*, That the copyright which at the time of the passing of this Act may be subsisting in any article named in this section shall endure for the balance of the term of copyright fixed by the laws then in force;

(b) For *fifty* years after the date of first publication in the case of any composite or collective work; any work copyrighted by a corporate body or by the employer of the author or authors; any abridgment, compilation, dramatization, or translation; any posthumous work; any arrangement or reproduction in some new form of a musical composition; any photograph; any reproduction of a work of art; any print or pictorial illustration; the copyrightable contents of any newspaper or other periodical; and the additions or annotations to works previously published.

(c) For *the lifetime of the author and for fifty years after his death*, in the case of his original book, lecture, dramatic or musical composition, map, work of art, drawing or plastic work of a scientific or technical character, or other original work, but not including any work specified in subsections (a) or (b) hereof; and in the case of joint authors, during their joint lives and for fifty years after the death of the last survivor of them.

In all of the above cases the term shall extend to the end of the calendar year of expiration.

Duration of the Copyright.

Comp. as to prints or labels, the Act of June 18, 1874, sec. 3 (18 Stat. at L., part III, p. 79):

Comp. Rev. stat., secs. 4953 and 4954.

The copyright in a work published anonymously or under an assumed name shall subsist for the same period as if the work had been produced bearing the author's true name.

**Extension of
term of subsist-
ing copyright.**

Comp. Act of Feb. 3, 1831, sec. 16 (4 Stat. at L., p. 439).

SEC. 19. That the copyright subsisting in any work at the time when this Act goes into effect may, at the expiration of the renewal term provided for under existing law, be further renewed and extended by the author, if he be still living, or if he be dead, leaving a widow, by his widow, or in her default, or if no widow survive him, by his children, if any survive him, for a further period such that the entire term shall be equal to that secured by this Act: *Provided*, That application for such renewal and extension shall be made to the Copyright Office and duly registered therein within one year prior to the expiration of the existing term: *And provided further*, That, should such subsisting copyright have been assigned, or a license granted therein for publication upon payment of royalty, the copyright shall be renewed and extended only in case the assignee or licensee shall join in the application for such renewal and extension.

**Right of trans-
lation.**

Comp. Act of March 3, 1891, sec. 1 (26 Stat. at L., p. 1107).

SEC. 20. That the author's exclusive right to dramatize or translate any one of his works in which copyright is subsisting shall, after the expiration of ten years from the day on which the work was registered in the Copyright Office, continue effective only in case a dramatization or translation thereof has been produced within that period by his consent or that of his assigns, and in the case of translations shall be confined to the language of any translation so produced.

Protection of the Copyright.

**Protection for
unpublished
works.**

SEC. 21. That every person who, without the consent of the author or proprietor first obtained, shall publish or reproduce in any manner whatsoever any unpublished copyrightable work shall be liable to the author or proprietor for all damages occasioned by such injury, and to an injunction restraining such unauthorized publication, as hereinafter provided.

**Infringement
of copyright.**

Comp. Rev. Stat., sec. 3082.

SEC. 22. That any reproduction, without the consent of the author or copyright proprietor, of any work or any material part of any work in which copyright is subsisting shall be illegal and is hereby prohibited. The provisions of section thirty-eight hundred and ninety-three of

the Revised Statutes, prohibiting the use of the mails in certain cases, and also the provision of section thirty-eight hundred and ninety-five of the Revised Statutes, shall apply, and the importation into the United States of any such fraudulent copies or reproductions is hereby prohibited.

SEC. 23. That if any person shall infringe the copyright in any work protected under the copyright laws of the United States by doing or causing to be done, without the consent of the copyright proprietor first obtained in writing, any act the exclusive right to do or authorize which is by such laws reserved to such proprietor, such person shall be liable:

Remedies

(a) To an injunction restraining such infringement;

(b) To pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer may have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only and defendant shall be required to prove every element of cost which he claims; or in lieu of actual damages and profits, such damages as to the court shall appear just, to be assessed upon the following basis, but such damages shall in no case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty:

Comp. Rev. Stat., sec. 4964 (as amended by Act of March 3, 1891, sec. 7, 26 Stat. at L., p. 1109) and Rev. Stat., sec. 4965 (as amended by Act of March 2, 1895, 28 Stat. at L., p. 965).

(1) In the case of a painting, statue or sculpture or any device especially adapted to reproduce to the ear any copyrighted work, not less than ten dollars for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

(2) In the case of a lecture, sermon, or address, not less than fifty dollars for every infringing delivery;

(3) In the case of a dramatic or musical composition, not less than one hundred dollars for the first and not less than fifty dollars for every subsequent infringing performance;

(4) In the case of all other works enumerated in section five of this Act, not less than one dol-

lar for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees.

(c) To deliver up on oath to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all goods alleged to infringe a copyright;

(d) To deliver up on oath for destruction all the infringing copies or devices, as well as all plates, molds, matrices or other means for making such infringing copies.

Any court given jurisdiction under section thirty-two of this Act may proceed in any action instituted for violation of any provision hereof to enter a judgment or decree enforcing any of the remedies herein provided.

SEC. 24. That the proceedings for an injunction, damages and profits, and those for the seizure of infringing copies, plates, molds, matrices, etc., aforementioned, may be united in one action.

SEC. 25. That any person who wilfully and for profit shall infringe any copyright secured by this Act, or who shall knowingly and wilfully aid or abet such infringement or in any wise knowingly and wilfully take part in any such infringement, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not exceeding one year or by a fine of not less than one hundred dollars nor more than one thousand dollars, or both, in the discretion of the court.

Any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this Act, or words of the same purport, in or upon any article for which he has not obtained copyright, or with fraudulent intent shall remove or alter the copyright notice upon an article duly copyrighted, shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars and not more than one thousand dollars. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice, or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of one hundred dollars.

Comp. Rev. Stat., sec. 4966 (as amended by Act of Jan. 6, 1897, 29 Stat. at L., p. 481).

False notice of
copyright.

The importation into the United States of any article bearing such notice of copyright when there is no existing copyright thereon in the United States is prohibited, and such importations shall be proceeded against as provided by sections twenty-six to twenty-nine, inclusive, of this Act.

SEC. 26. That any and all such fraudulent copies prohibited importation by this Act which are brought into the United States from any foreign country shall be seized by the collector, surveyor or other officer of the customs, or any person authorized in writing to make seizures under the customs revenue laws, in the district in which they are found; and the copies so seized shall without delay be delivered into the custody of the principal customs officer of the collection district in which the seizure is made; whereupon the said officer shall (except in cases of importation by mail) publish a notice of such seizure once a week for three successive weeks in some newspaper of the county or place where such seizure shall have been made. If no newspaper is published in such county, then such notice shall be published in some newspaper of the county in which the principal customs office of the district is situated; and if no newspaper is published in such county, then notices shall be posted in proper public places, which notices shall describe the articles seized and state the time, cause, and place of seizure, and shall require any person claiming such articles to appear and file with such customs officer his claim to such articles within twenty days from the date of the first publication of such notice.

Prohibition of
importation.

SEC. 27. That any person claiming the property so seized may, at any time within twenty days from the date of such first publication of notice, file with the collector, or other proper officer, a claim, stating his interest in the articles seized, and deposit with such collector, or other proper officer, a bond to the United States as now prescribed by law, in the penal sum of two hundred and fifty dollars, with two sureties, to be approved by said collector, or other proper officer, conditioned that in case of the condemnation of the articles so claimed the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation.

Comp. Rev. Stat., sec. 3076.

Comp. Rev. Stat., sec. 838.

Such collector, or other proper officer, shall transmit the said bond with a duplicate list and description of the articles seized and claimed to the United States Attorney for the proper district, who shall proceed for a condemnation of the property by information as in customs revenue cases.

SEC. 28. That in case the property shall be condemned it shall be delivered into the custody of the United States Marshal and destroyed in such manner as the court may direct. If not condemned the said articles shall be delivered to the importer on payment of the duty, if any be due. If probable cause is found by the court as an existing fact connected with the seizure, the officer or other person making the seizure shall be entitled to a certificate affording him an absolute defense to any action on account of the seizure. If no such claim shall be filed, or bond given, within the twenty days above specified, the collector, or other proper officer of the customs who has custody of the property, shall declare the same forfeited, and it shall be destroyed in such manner as shall be prescribed by the Secretary of the Treasury.

SEC. 29. That mails from foreign countries shall be carefully examined by postmasters, who shall forward to the principal customs officer of the district in which the post office is situated any foreign mail package supposed to contain any article imported in violation of the provisions of this Act. Upon receipt of such package the customs officer shall detain the same in his custody and notify by mail the addressee of the package of its detention, and require him to show cause within thirty days why the supposed prohibited articles should not be destroyed. If the person so addressed shall not appear and show cause to the contrary, the customs officer shall make formal seizure of the articles contained in the package supposed to be prohibited importation, and if the package contains any prohibited articles shall declare the same forfeited, whereupon said articles shall be destroyed in such manner as the Secretary of the Treasury shall direct. If upon examination the articles prove to be innocent of any violation of law the package shall be forwarded to the addressee in regular course of mail, subject to the payment

of customs duty, if any be due. If the addressee appears and shows to the satisfaction of the said officer that the importation of the articles is not prohibited, the said articles shall be delivered to the addressee upon payment of the customs duty, if any be due.

SEC. 30. That during the existence of the American copyright in any book the importation into the United States of any foreign edition or editions thereof (although authorized by the author or proprietor) not printed from type set within the limits of the United States or from plates made therefrom, or any plates of the same not made from type set within the limits of the United States, or any editions thereof produced by lithographic process not performed within the limits of the United States, in accordance with the requirements of section thirteen of this Act, shall be and is hereby prohibited: *Provided, however,* That such prohibition shall not apply—

(a) To works in raised characters for the use of the blind;

(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization;

(c) To the authorized edition of a book in a foreign language or languages, of which only a translation into English has been copyrighted in this country;

(d) To books in a foreign language or languages, published without the limits of the United States, but deposited and registered for an *ad interim* copyright under the provisions of this Act: in which case the importation of copies of an authorized foreign edition shall be permitted during the *ad interim* term of two years, or until such time within this period as an edition shall have been produced from type set within the limits of the United States, or from plates made therefrom, or by a lithographic process performed therein as above provided;

Comp. Act of March 3, 1891, sec. 3 (26 Stat. at L., p. 1107).

Comp. Act of Oct. 1, 1890, Free List, sec. 513.
Comp. Act of March 3, 1891, sec. 3 (26 Stat. at L., p. 1108).

Comp. Act of March 3, 1891, sec. 3 (26 Stat. at L., p. 1107).

Comp. Act of Mar. 3, 1905.

(e) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four sub-divisions following, that is to say:

(1) When imported, not more than one copy at one time for use and not for sale, under permission given by the proprietor of the American copyright;

(2) When imported, not more than one copy at one time, by the authority or for the use of the United States;

(3) When specially imported, for use and not for sale, not more than one copy of any such book in any one invoice, in good faith, by or for any society or institution incorporated for educational, literary, philosophical, scientific or religious purposes, or for the encouragement of the fine arts, or for any college, academy, school or seminary of learning, or for any State, school, college, university or free public library in the United States: but such privilege of importation without the consent of the American copyright proprietor shall not extend to a foreign reprint of a book by an American author copyrighted in the United States unless copies of the American edition can not be supplied by the American publisher or copyright proprietor;

(4) When such books form parts of libraries or collections purchased *en bloc* for the use of societies, institutions or libraries designated in the foregoing paragraph; or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries, and are not intended for sale:

Provided, That copies imported as above may not lawfully be used in any way to violate the rights of the American copyright proprietor or annul or limit the copyright protection secured by this Act; and such unlawful use shall be deemed an infringement of copyright.

SEC. 31. That all copies of authorized editions of copyright books imported in violation of the above provisions

of this Act may be exported and returned to the country of export, provided it be shown to the satisfaction of the Secretary of the Treasury upon written application that such importation does not involve wilful negligence or fraud. If absence of wilful negligence or fraud be not established to the satisfaction of the Secretary of the Treasury, the importation shall be proceeded against as in the case of fraudulent copies in the manner prescribed by sections twenty-six to twenty-nine, inclusive, of this Act.

SEC. 32. That all actions arising under the copyright laws of the United States shall be originally cognizable by the circuit courts of the United States, the district court of any Territory, the Supreme Court of the District of Columbia, the district courts of Alaska, Hawaii and Porto Rico, and the courts of first instance of the Philippine Islands.

Suits: Jurisdiction.

Actions arising under this Act may be instituted in the district of which the defendant is an inhabitant, or in the district where the violation of any provision of this Act has occurred.

Any such court, or judge thereof, shall have power, upon bill in equity filed by any party aggrieved, to grant an injunction to prevent the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as said court or judge may deem reasonable. Any injunction that may be granted, restraining and enjoining the doing of anything forbidden by this Act may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative throughout the United States and be enforceable by proceedings in contempt, or otherwise, by any other court or judge possessing jurisdiction of the defendant; but the defendants, or any or either of them, may make a motion in the proper court of any other district where such a violation is alleged, to dissolve said injunction upon such reasonable notice to the plaintiff as the court or judge before whom said motion shall be made shall deem proper; service of said motion to be made on the plaintiff in person or on his attorney in the action. Said courts or judges shall have authority to enforce said injunction and to hear and deter-

mine a motion to dissolve the same, as herein provided, as fully as if the action were pending or brought in the district in which said motion is made.

The clerk of the court, or judge granting the injunction, shall, when required so to do by the court hearing the application to dissolve or enforce said injunction, transmit without delay to said court a certified copy of all the papers on which the said injunction was granted that are on file in his office.

When any action is brought in any place whereof the defendant is not an inhabitant, service of process shall be made by the marshal of the district of which the defendant is an inhabitant, or of the district where he may be found, upon receiving a certified copy of the process from the clerk of the court where the suit was brought, and return shall be made by said marshal to said court.

SEC. 33. That the final orders, judgments or decrees of any court mentioned in section thirty-two of this Act arising under the copyright laws of the United States may be reviewed on appeal or writ of error in the manner and to the extent now provided by law for the review of cases finally determined in said courts respectively.

SEC. 34. That no action shall be maintained under the provisions of this Act unless the same is commenced within three years after the cause of action arose.

SEC. 35. That in all recoveries under this Act full costs shall be allowed.

SEC. 36. That nothing in this Act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any infringement of a copyright might have had if this Act had not been passed.

SEC. 37. That the copyright is distinct from the property in the material object which is the subject of copyright, and the sale or conveyance, by gift or otherwise, of the original object shall not of itself imply the cession of the copyright; nor shall the assignment of the copyright imply the transfer of the material object.

SEC. 38. That the right of translation, the right of dramatization, the right of oral delivery of a lecture, the right of representation in the case of a dramatic composition, the right of performance in the case of a musical composition, where the latter is reserved as provided in section fourteen hereof, the right to make any mechanical

Comp. Rev. Stat., sec. 972.

Transfer of Copyright.

device by which music may be reproduced to the ear, and the right of reproduction of a work of art or of a drawing or plastic work of a scientific or technical character shall each be deemed a separate estate subject to assignment, lease, license, gift, bequest, or inheritance.

SEC. 39. That the copyright in a work of art and the ownership of the work shall be deemed to be distinct properties, and, except as provided for in this Act, the copyright in any artistic work shall remain in the author of the work, even if such work be sold or disposed of by such author, unless the copyright therein be expressly assigned or disposed of in writing by him, or pass by operation of law or testamentary disposition.

SEC. 40. That every assignment of copyright under this Act shall be by an instrument of writing signed by the assignor.

Assignment of
copyright.

SEC. 41. That every assignment of copyright executed in a foreign country shall be acknowledged by the assignor before a consular officer or secretary of legation of the United States authorized by law to administer oaths or perform notarial acts. The certificate of such acknowledgment under the hand and official seal of such consular officer or secretary of legation shall be *prima facie* evidence of the execution of the instrument.

Foreign as-
signment.

Comp. Patent Act of March 3, 1897, sec. 5
(29 Stat. at L., p. 693).

SEC. 42. That every assignment of copyright shall be recorded in the Copyright Office within ninety days after its execution in the United States or within six calendar months after its execution without the limits of the United States, in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, whose assignment has been duly recorded.

Comp. Rev. Stat., sec. 4955.

SEC. 43. That in place of the original instrument of assignment there may be sent for record a true copy of the same duly certified as such by any official authorized to take an acknowledgment to a deed.

SEC. 44. That the Register of Copyrights shall, upon payment of the prescribed fee, record such assignment, and shall return to the sender, with a certificate of record attached, under seal, the original instrument or the copy

Comp. Act of June 18, 1874, sec. 2 (18 Stat.
at L., part III, p. 79).

of the same so filed for record; and upon the payment of the fee prescribed by this Act he shall furnish to any person requesting the same a certified copy thereof, under the seal of the Copyright Office.

SEC. 45. That when an assignment of the copyright in a specified book or other work has been recorded, the assignee shall have the privilege of substituting his name for that of the assignor in the statutory notice of copyright prescribed by this Act.

The Copyright Office.

Comp. Rev. Stat., sec. 4948; Act. of Feb. 19, 1897 (29 Stat. at L., p. 545).

SEC. 46. That all records and other things relating to copyrights, required by law to be preserved, shall be kept and preserved in the Copyright Office, Library of Congress, District of Columbia, and shall be under the control of the Register of Copyrights, who shall, under the direction and supervision of the Librarian of Congress, perform all the duties relating to the registration of copyrights.

Comp. Act of Feb. 19, 1897 (29 Stat. at L., p. 545).

SEC. 47. That there shall be appointed by the Librarian of Congress a Register of Copyrights, at a salary of _____ dollars per annum, and one Assistant Register of Copyrights, at a salary of _____ dollars per annum, who shall have authority during the absence of the Register of Copyrights to attach the Copyright Office seal to all papers issued from the said office, and to sign such certificates and other papers as may be necessary. There shall also be appointed by the Librarian such subordinate assistants to the Register as may from time to time be authorized by law.

Comp. Act of Feb. 19, 1897 (29 Stat. at L., p. 545).

SEC. 48. That the Register of Copyrights shall make daily deposits in some bank in the District of Columbia, designated for this purpose by the Secretary of the Treasury as a national depository, of all moneys received to be applied as copyright fees, and shall make weekly deposits with the Secretary of the Treasury, in such manner as the latter shall direct, of all copyright fees actually applied under the provisions of this Act, and annual deposits of sums received which it has not been possible to apply as copyright fees or to return to the remitters, and shall also make monthly reports to the Secretary of the Treasury and to the Librarian of Congress of the applied copyright fees for each calendar month, together with a statement of all remittances received, trust funds on hand, moneys refunded, and unapplied balances.

Sec. 49. That the Register of Copyrights shall give bond to the United States in the sum of twenty thousand dollars, in form to be approved by the Solicitor of the Treasury, and with sureties satisfactory to the Secretary of the Treasury, for the faithful discharge of his duties.

Comp. Act of Feb. 19, 1897 (29 Stat. at L., p. 545).

Sec. 50. That the Register of Copyrights shall make an annual report to the Librarian of Congress, to be printed in the Annual Report on the Library of Congress, of all copyright business for the previous fiscal year, including the number and kind of works which have been deposited in the Copyright Office during the fiscal year, under the provisions of this Act.

Comp. Rev. Stat., sec. 4951.

Sec. 51. That the seal provided under the Act of July eighth, eighteen hundred and seventy, and at present used in the Copyright Office, shall continue to be the seal thereof, and by it all papers issued from the Copyright Office requiring authentication shall be authenticated.

Comp. Rev. Stat., sec. 4949.

Sec. 52. That, subject to the approval of the Librarian of Congress, the Register of Copyrights shall be authorized to make reasonable rules and regulations, not inconsistent with the provisions of this Act, for the conduct of proceedings with reference to the registration of claims to copyright as provided by this Act: *Provided*, That no breach of such rules or regulations shall affect the validity of the copyright.

Comp. Trade-mark Act of Feb. 20, 1905, sec. 26.

Sec. 53. That the Register of Copyrights shall provide and keep such record books in the Copyright Office as are required to carry out the provisions of this Act, and whenever deposit has been made in the Copyright Office of a title or copy of any work under the provisions of this Act he shall make entry thereof.

Comp. Rev. Stat., sec. 4957.

Sec. 54. That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate under seal of copyright registration, to contain his name and address, the title of the work upon which copyright is claimed, the date of the deposit of the required copies of such work, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book the certificate shall also state the receipt of the affidavit required by section thirteen of this Act, and the date of the completion of the printing, or the date of the publication of the book, as

Comp. Trade-mark Act of Feb. 20, 1905, sec. 16.

stated in the said affidavit. The Register of Copyrights shall prepare a printed form for the said certificate to be filled out in each case as above provided for, which certificate sealed with the seal of the Copyright Office shall, upon payment of the prescribed fee, be given to any person making application for the same, and the said certificate shall be admitted in any court as *prima facie* evidence of the facts stated therein.

Catalogue of
copyright entries.

Comp. Act of March 3, 1891, sec. 4 (26 Stat.
at L., p. 1108).

SEC. 55. That the Register of Copyrights shall fully index all copyright registrations, and shall print at periodic intervals a catalogue of the titles of articles deposited and registered for copyright, together with suitable indexes, and at stated intervals shall print complete and indexed catalogues for each class of copyright entries, and thereupon shall have authority to destroy the original manuscript catalogue cards containing the titles included in such printed volumes and representing the entries made during such intervals. The current catalogues of copyright entries and the index volumes herein provided for shall be admitted in any court as *prima facie* evidence of the facts stated therein as regards any copyright registration.

Comp. Act of March 3, 1891, sec. 4 (26 Stat.
at L., p. 1108).

SEC. 56. That the said printed current catalogues as they are issued shall be promptly distributed by the Copyright Office to the collectors of customs of the United States and to the postmasters of all exchange offices of receipt of foreign mails, in accordance with revised lists of such collectors of customs and postmasters prepared by the Secretary of the Treasury and the Postmaster-General, and they shall also be furnished to all parties desiring them at a price to be determined by the Register of Copyrights not exceeding five dollars per annum for the complete catalogue of copyright entries and not exceeding one dollar per annum for the catalogues issued during the year for any one class of subjects. The consolidated catalogues and indexes shall also be supplied to all persons ordering them at such prices as may be determined to be reasonable, and all subscriptions for the catalogues shall be received by the Superintendent of Public Documents, who shall forward the said publications; and the moneys thus received shall be paid into the Treasury of the United States and accounted for under such laws and Treasury regulations as shall be in force at the time.

SEC. 57. That the record books of the Copyright Office, together with the indexes to such record books, and all works deposited and retained in the Copyright Office, shall be open to public inspection at convenient times; and copies may be taken of the copyright entries actually made in such record books, subject to such safeguards and regulations as shall be prescribed by the Register of Copyrights and approved by the Librarian of Congress.

SEC. 58. That of the articles deposited in the Copyright Office under the provisions of the copyright laws of the United States or of this Act, the Librarian of Congress shall determine what books and other articles shall be transferred to the permanent collections of the Library of Congress, including the Law Library, and what other books or articles shall be placed in the reserve collections of the Library of Congress for sale or exchange, or be transferred to other governmental libraries in the District of Columbia for use therein.

Disposal of accumulated copyright deposits.

SEC. 59. That of any articles undisposed of as above provided, together with all titles and correspondence relating thereto, the Librarian of Congress and the Register of Copyrights jointly shall at suitable intervals determine what of these received during any period of years it is desirable or useful to preserve in the permanent files of the Copyright Office, and, after due notice as hereinafter provided, may within their discretion cause the remaining articles and other things to be destroyed: *Provided*, That there shall be printed in the Catalogue of Copyright Entries from February to November, inclusive, a statement of the years of receipt of such articles and a notice to permit any author, copyright proprietor, or other lawful claimant to claim and remove before the expiration of the month of November of that year anything found which relates to any of his productions deposited or registered for copyright within the period of years stated, not reserved or disposed of as provided for in sections fifty-eight and fifty-nine of this Act: *And provided further*, That no manuscript of an unpublished work shall be destroyed during the term of its copyright without specific notice to the author, copyright proprietor, or other lawful claimant, permitting him to claim and remove it.

Copyright fees.

Comp. Rev. Stat., sec. 4958; Act of June 18, 1874, sec. 2 (18 Stat. at L., part III, p. 79); Act of March 3, 1891, sec. 4 (26 Stat. at L., p. 1108).

SEC. 60. That the Register of Copyrights shall receive, and the persons to whom the services designated are rendered shall pay, the following fees: For the registration of any work subject to copyright deposited under the provisions of this Act, one dollar, which sum is to include a certificate under seal. For every additional certificate under seal of registration made, fifty cents. For recording and certifying any instrument of writing for the assignment of copyright, or for any copy of an assignment, duly certified, if not over three hundred words in length, one dollar; if more than three hundred and less than one thousand words in length, two dollars; if more than one thousand words in length, one dollar for each one thousand words and fraction thereof over three hundred words. For comparing any copy of an assignment with the record of such document in the Copyright Office and certifying the same under seal, one dollar. For recording the transfer of the proprietorship of copyrighted articles, ten cents for each title of a book or other article in addition to the fee prescribed for recording the instrument of assignment. For any requested search of Copyright Office records, indexes, or deposits, fifty cents for each full hour of time consumed in making such search. For the personal inspection of copyright record books, indexes, applications, or any article deposited, including the copying of an entry actually made in any such record book, ten cents in the case of each book or other article: *Provided*, That for such inspection or copying, or both, if made by or on behalf of any person party to a copyright suit already begun or if the inspection and use of a book or other deposited article is made in the reading-room of the Library of Congress, or in any division of the Library to which the said article would naturally pertain, no charge shall be made: *Provided further*, That only one registration at one fee shall be required in the case of several volumes of the same book or periodical deposited at the same time or of a numbered series of any work specified in subsections (h), (j), (k), and (l) of section five of this Act, where such series represents the same subject with variances only in pose or composition and the items composing it are deposited at the same time under one title with a view to a single registration.

SEC. 61. That in the interpretation and construction of this Act the words "United States" shall be construed to mean the United States and its territorial possessions, and to include and embrace all territory which is now or may hereafter be under the jurisdiction and control of the United States. **Miscellaneous provisions.**

SEC. 62. That in the interpretation and construction of this Act words importing the singular number shall be held to include the plural, and *vice versâ*, except where such construction would be unreasonable, and words importing the masculine gender shall be held to include all genders, except where such construction would be absurd or unreasonable.

SEC. 63. That in the interpretation and construction of this Act "the date of publication" shall in the case of a work of which copies are reproduced for sale or distribution be held to be the earliest date when copies of the first authorized edition were sold or placed on sale; and the word "author" shall include an employer in the case of works made for hire.

SEC. 64. That all acts and parts of acts inconsistent herewith are hereby repealed, save and except section 4966 of the Revised Statutes, the provisions of which are hereby confirmed and continued in force, anything to the contrary in this Act notwithstanding. **Repealing clause.**

LIBRARY OF CONGRESS
WASHINGTON

OFFICE OF THE LIBRARIAN

MEMORANDUM

June 2nd 1906

Senator:

There will already have been brought to your attention the Copyright bill introduced Thursday. Under separate cover we have sent to you two copies of it as printed in the Library - the type in these, and the margins, being somewhat larger than those in the regular edition.

The history and purpose of the bill were indicated in the President's Message of last December, commending it to the prompt attention of Congress. The willingness of your Committee to meet with the House Committee in joint session for the first hearing upon it will be much appreciated by those interested, who have for a year given serious, and we believe, conscientious labor to its preparation.

I am permitted to remind you of the date, hour and place of this hearing: It is to be on Wednesday next (June 6) at 10 o'clock, at the Library building, in the room known as the Senate Reading Room.

In presenting the bill to your Committee at the hearing, which I shall naturally do as responsible for the Conferences from which it emanated, I shall, with the permission of the Committee, call attention to its leading features, especially to those which are a modification or amplification of existing statute. I have thought, however, that the members of the Committee might like to have in advance of the hearing a memorandum of the most significant of these, and I enclose such a memorandum; adding note of existing provisions (they are few) which are intentionally abrogated.

Very respectfully,
Librarian of Congress.

COPYRIGHT BILL.

MEMORANDUM

A.—Some Leading Features

As the present law consists of but a group of statutes, and the proposed bill is systematic and organic in form, the changes which it introduces other than mere abrogations are not easily explained by mere reference to the existing statutes. Throughout attempt has been made to substitute general terms for particular specifications, to provide for a protection as broad as the Constitution contemplated, and to ensure that no specification shall tend to limit unduly either subject matter or the protection. Important respects in which the bill modifies or amplifies existing law are as follows:

Nature and Extent.—Section 1, like Section 9, is fundamental. The existing law (R. S., section 4952) specifies as the exclusive right “the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending;” of public performance or representation; and of dramatization or translation. The bill omits the specifications “printing, reprinting, publishing, completing, executing, and finishing,” but attempts others intended to be fully as broad. [Please see Section 1.] It adds the right of oral delivery in the case of lectures, and the right to make, sell, distribute or let for hire any device, etc., especially adapted to reproduce to the ear any musical work, and to reproduce it to the ear by means of such a device; but these latter are limited to works *hereafter* published and copyrighted.

The copyright is to protect “all the copyrightable component parts of the work copyrighted and any and all reproductions or copies thereof in whatever form, style or size.”

Subject Matter of Copyright.—A general statement that it is to include “all the works of an author,” leaving the term “author” to be as broad as the Constitution intended. Certain specifications follow, but coupled with the proviso that they shall not be held to limit the subject matter.

The specifications (Section 5) substitute so far as possible general terms for particulars. They omit, for instance, the terms “engravings, cuts, lithographs, painting, chromo, statue and statuary.” They assume, however, that these will be included under the more general terms as “prints and pictorial illustrations,” or “reproductions of a work of art,” or “works of art,” or “models or designs for works of art.” The term “works of art” is deliberately intended as a broader specification than “works of the *fine arts*” in the present statute, with

the idea that there is subject matter (*e. g.* of applied design, yet not within the province of Design Patents) which may properly be entitled to protection under the copyright law.

Express mention is made of oral lectures, sermons, and addresses; periodicals, including newspapers; drawings and plastic works of a scientific or technical character; and new matter contained in new editions.

Labels and prints relating to articles of manufacture hereafter to be registered in the Copyright Office instead of in the Patent Office.

Additions, revisions, abridgements, dramatizations, translations, etc., to be regarded as new works. [Section 6.]

Who may obtain Copyright.—As broad as heretofore. International reciprocal arrangements confirmed. The privilege extended to any foreign author who is living in the United States at the time of the making and first publication of his work, or first or contemporaneously publishes here.

How to secure Copyright.—The copyright is to be “secured” by *publication of the work with the notice affixed*. This Section, 9, with Section 14, is fundamental. Sections 10, 11, and 13 prescribe subsequent procedure in the Copyright Office.

Registration is provided for works (*e. g.* works of art) of which copies are not reproduced for sale, with the requirement that the notice shall be affixed to the original “before publication thereof.” [Section 10.]

The deposit to be not later than thirty days after publication; in the case of a periodical not later than ten days. The copies deposited to be of the “best edition,” as required by the act of 1870. [Section 11.] In case of error or omission to make the deposit within the thirty days, permission to make it within a year after first publication, but with the proviso that no action shall be brought for infringement until it has been made. [Section 15.]

In case of a printed book the copies deposited must be accompanied with the affidavit called for by House bill no. 13355, passed by the House April 26, 1904, that the requirements as to American typesetting, etc., have been complied with, and the affidavit is to specify the place and the establishment in which the work was done.

Extends [section 13] the “manufacturing clause” to include texts produced by lithographic process, and also in certain cases illustrations and separate lithographs, but abrogates it in the case of photographs.

The articles required to be deposited are to be entitled to free transmittal through the mails, as under earlier statutes (*e. g.* Act of February 18, 1867; July 8, 1870). [Section 12.]

The *notice* of copyright simplified. Specified only for the copies “published or offered for sale in the United States.” Where right of

public performance is reserved on musical compositions, a notice to this effect is required. [Section 14.]

Ad interim term [section 16]. Extends the *ad interim* term of protection in the case of books first published abroad in foreign languages from one year to two years. Provides for an *ad interim* term in the case of books first published abroad in English, of thirty days, but with prohibition of importation during the interim.

Duration [section 18]. Instead of the present term (forty-two years), varying terms according to the subject matter. Provides a special term of twenty-eight years (instead of forty-two years as now) for labels and prints heretofore registered in the Patent Office; increases the term of other articles, and especially derivative articles, from forty-two years to fifty years; and in the case of *original* works increases the term to the life of the author and fifty years. Abolishes renewals.

The bill also makes provision for the extension of subsisting copyrights to agree with the term provided in the present bill where the author is living or his widow or a child, provided the publisher or other assignee joins in the application for such extension. (See section 19 of the draft).

The right of dramatization or translation must be exercised within ten years or it will lapse.

Protection of copyright.—The present statute (R. S., section 4965) attempts to define acts which shall constitute infringements. The bill, having defined the exclusive rights which the copyright has secured to the author, defines (section 23) infringement as “doing or causing to be done” without his consent “any act the exclusive right to do or authorize which” is “reserved” to him. It contains, however (section 22), the one specification that “any reproduction” without his consent “of any work or any material part of any work” in which copyright is subsisting, shall be illegal and is prohibited.

The *civil remedies* open to him (section 23) are the injunction and an action for damages and profits, or, in lieu of actual damages and profits, “such damages as to the court shall appear just, to be assessed” upon the basis of so much per copy or infringing act, but to be not less than a total minimum of \$250 and maximum of \$5,000. And the infringing copies are to include all copies *made* by the defendant, and not merely those “found in his possession” or “sold or exposed for sale.” A provision for the impounding and destruction of infringing copies and means for producing them.

Protection provided for [section 21] against publication or reproduction of any unpublished copyrightable work.

A *wilful* infringement *for profit*, now a misdemeanor in the case of such a performance or representation of dramatic or musical compositions, is made a misdemeanor in all cases, as is also the insertion of a false notice of a copyright or the removal of a true one. [Section 22.]

Importations [sections 26-29].—Detailed provision for the treatment of copies supposed to be infringing or otherwise prohibited. Exceptions to prohibition modified as below under Memorandum "B."

Suits [sections 32, etc.] Actions may be instituted "in the district of which the defendant is an inhabitant, or in a district where the violation of any provision of the Act has occurred."

Limitation of actions to be *three* years instead of *two* and to apply to *all* actions under the Act. [Section 34.]

Transfers [sections 37-45].—Definitions of the copyright as distinct from the property in the material object and of the copyrights in derivative works as distinct among themselves.

The Copyright Office.—Sections 46 to 60 provide specifically for the administration of this.

Catalogue of Title Entries.—Detailed provision is made for the continuance of the printing of the Catalogue on the allotment for printing of the Library of Congress (see sections 55 and 56 of the draft); and the Catalogue is to be made *primâ facie* evidence of deposit and registration.

Provision is made for the reprinting of the indexes and catalogues in classes at stated intervals, with authority to destroy the manuscript cards included in such printed volumes. The current catalogues to be distributed from the Copyright Office, and sold at a price fixed by the Register; the subscriptions to be received by the Superintendent of Public Documents.

Following the provisions for the indexing and cataloguing of the articles deposited, provisions are made, in sections 57, 58, and 59 of the draft, for the public inspection of the Copyright Office record books and deposits; for the permanent use of such deposited articles; for their transfer to other Government libraries where unnecessary to the Library of Congress; and for the disposal of accumulations of useless articles.

Section 60 provides for fees. A uniform fee of one dollar for registration; but this is to include the certificate which is to be furnished in all cases [a separate charge is now made for it]. And the certificate is given a new importance as *primâ facie* evidence of the facts which it sets forth, including deposit and registration, thus exempting the complainant in an action from other affirmative proof of compliance with these formalities.

A single fee for certain registrations heretofore requiring multiple fees.

COPYRIGHT BILL.

B.—Provisions of existing law which are omitted from the Bill.

The existing law is set forth in the twenty odd pages of "Copyright Office Bulletin no. 1." It consists of Art. 1, Sec. 8, of the Constitution, Sections 4948 to 4970, inclusive, of the Revised Statutes, and twelve later Acts in amendment thereof. The *substantial* provisions of these which are intentionally abrogated are the following [references are to pages of the Bulletin, copy herewith] :

[SEC. 4950, p. 6.—Omitted in the bill but exists still as part of the Act of Feb. 19, 1897.]

SEC. 4952, p. 6A.—*Ad interim* copyright. The requirement for notice (of date of publication and reservation of copyright) on the foreign edition is abolished.

SEC. 4952, p. 7.—Labels and prints relating to articles of manufacture no longer to be registered in the Patent Office, but in the Copyright Office, with corresponding reduction of fee.

SEC. 4954, p. 7.—Renewal term abolished.

SEC. 4956, p. 8.—Requirement that the deposit of copies shall be "on or before the date of publication" is abolished, and a margin of thirty days is allowed, with provisions for making good omissions within a year.

The deposit (registration) is no longer to be the act *entitling* to a copyright. The copyright is to be "secured" by "the publication of the work with the notice of copyright affixed," and dates from such publication. Registration with deposit remains compulsory, and after the expiration of the thirty days no action for infringement can be brought until it has been made; but it is no longer expressed as a formality the failure to comply with which is to avoid the copyright.

SEC. 4956, p. 8.—Preliminary deposit of title or description abolished. "Photographs" omitted from the "manufacturing clause." ["Chromos" also, in terms, but assumed to be covered by "lithographs."]

SEC. 4956, p. 9.—Importation by *individuals* of the foreign edition (two copies at any one time) is abolished except with the assent of the American copyright proprietor, and the two copies at a time are throughout reduced to one. The privilege of societies and institutions (under the Act of Oct. 1, 1890) is no longer to include the importation, without such assent, of “a foreign reprint of a book by an American author copyrighted in the United States unless copies of the American edition can not be supplied by the American publisher or copyright proprietor;” and the society or institution must be *incorporated*, unless it be a “college, academy, school or seminary of learning” or a “state, school, college, university or free public library.”

SEC. 4957, p. 9.—The particular language of the entry in the record books of the Copyright Office is no longer specified.

SEC. 4959, p. 11.—Deposit of “subsequent editions” not required unless the “changes” which they contain are “substantial” enough to induce a new registration.

SEC. 4960, p. 12.—Provisions of Act of March 1, 1893, dropped as no longer effective.

SEC. 4962, p. 13.—*Notice*.—The date and the word “by” no longer required in the notice. The abbreviation “Copr.,” and in certain cases the letter C within a circle, permissible instead of the full word “Copyright.”

SECS. 4963, p. 13; 4964, p. 14; 4965, p. 15; 4966, p. 16.—*Penalties* imposed for acts in the nature of misdemeanors no longer to be shared by the United States with “a person” suing for them; sums recovered by way of compensation to the copyright proprietor not to be shared by him with the United States. All infringements wilful and for profit made misdemeanors, and the remedies provided by sections 4965 and 4966, including the specifications of a definite sum for each infringing copy, etc., and a minimum and maximum total, are expressed definitely as compensation to the copyright proprietor rather than penalties.

SEC. 4964, p. 14.—*Witnesses* not to be required for the written consent of the copyright proprietor.

ACT OF MARCH 3, 1891, p. 18.—Only one fee to be required in case of several volumes, or numbers or (in certain cases) parts of a series deposited at the same time with a view to a single registration.

ACT OF JAN. 7, 1904, p. 19.—Omitted as obsolete.

IN THE SENATE OF THE UNITED STATES.

JUNE 2, 1906.—Referred to the Committee to Audit and Control the Contingent Expenses of the Senate and ordered to be printed.

Mr. KITTREDGE submitted the following

RESOLUTION:

1 *Resolved*, That the Committee on Patents or any sub-
2 committee thereof be, and are hereby, authorized and directed
3 to investigate, in conjunction with the Committee on
4 Patents of the House of Representatives, all matters pertain-
5 ing to the copyright laws, to send for persons and papers,
6 and to administer oaths and to employ a stenographer to
7 report such hearings; and that the committee be authorized
8 to sit during the sessions or recess of the Senate and to have
9 such hearings printed, and that all expenses of the investiga-
10 tion be paid out of the contingent fund of the Senate.

COPYRIGHT BILL (S. 6330, H. R. 19853).

**Statement by the Librarian of Congress to the Committee
at the First Public Hearing, June 6, 1906.**

Mr. Chairman and Gentlemen of the Committee:

The origin of the bill before you is indicated in the message of the President to Congress last December. The passage is as follows:

"Our copyright laws urgently need revision. They are imperfect in definition, confused and inconsistent in expression; they omit provision for many articles which, under modern reproductive processes, are entitled to protection; they impose hardships upon the copyright proprietor which are not essential to the fair protection of the public; they are difficult for the courts to interpret and impossible for the Copyright Office to administer with satisfaction to the public. Attempts to improve them by amendment have been frequent, no less than twelve acts for the purpose having been passed since the Revised Statutes. To perfect them by further amendment seems impracticable. A complete revision of them is essential. Such a revision, to meet modern conditions, has been found necessary in Germany, Austria, Sweden, and other foreign countries, and bills embodying it are pending in England and the Australian colonies. It has been urged here, and proposals for a commission to undertake it have, from time to time, been pressed upon the Congress. The inconveniences of the present conditions being so great, an attempt to frame appropriate legislation has been made by the Copyright Office, which has called conferences of the various interests especially and practically concerned with the operation of the copyright laws. It has secured from them suggestions as to the changes necessary; it has added from its own experience and investigations, and it has drafted a bill which embodies such of these changes and additions as, after full discussion and expert criticism, appeared to be sound and safe. In form this bill would replace the existing insufficient and inconsistent laws by one general copyright statute. It will be presented to the Congress at the coming session. It deserves prompt consideration."

So far the message. The actual origin of the project was a suggestion—informal—by you, Mr. Chairman, that the Copyright Office should call the Conference.

The Conferences were not open public meetings, nor formal conventions. They were merely conferences of *organizations* specially invited—that is to say, associations representing a group of interests; and the organizations selected were *all* the most representative organizations

that we could think of, or that were brought to our attention, as having practical concern in the amelioration of the law, but especially those concerned in an affirmative way, that is, in the protection of the right. They were nearly thirty in number. The list of them and their representatives is before you. They are the writers of books, the writers of plays, the composers of music, the architects, painters and sculptors, the photographers and photo-engravers, the publishers of books, newspapers, periodicals, music and prints, and also the manufacturers: printers, typographers, lithographers. The conference included, therefore, those interests that abroad are considered primary—that is, the creators of the works which are to be protected, and the publishers through whom the property in them becomes effective and remunerative; but it included under each of these genera several species; and it added various subsidiary interests. It included the National Education Association and the American Library Association, as representing to some extent the consumers; and in addition to the legal counsel representing special interests it included two committees—of the American bar association and of the New York bar association—of experts upon copyright law, who gave gratuitous service as general advisors to the Conferences and in the framing of the bill. Upon questions of importation the Conference had the benefit of information and advice from a representative of the Treasury Department expert in the practice of that Department at ports of entry.

The Solicitor General was not a formal participant; but his representative was present throughout as an observer of the proceedings; and if I do not emphasize the aid which he and the Solicitor General himself rendered in later informal criticism and suggestion it is only because the practice of his office forbids him to initiate legislation, and his assistance in this must not be taken as a precedent, to his inconvenience.

The Conferences have included three general meetings (in June and November of last year and in March of this year), occupying eleven days of two sessions each; but they included also special consultations and much correspondence in the interims.

At the outset each organization was invited to state the respects in which it deemed the present law defective or injurious, either to its particular interest, or, in its estimation, to the general interest; and discussion was had of these.

The second Conference had before it a memorandum [Bulletin no. 10], prepared by the Register, embodying provisions deemed by the Office important for consideration at that stage.

The third Conference had before it a revision of this memorandum. It resulted in the draft of a bill which was sent to each participant for his comment and suggestion. And the bill itself—is before you.

We would have no misunderstanding as to what this bill is. It is a bill *resulting* from the Conferences, but it is not a “Conference bill,” for the Conference did not draw it, nor did the Conference by explicit vote or otherwise *determine* its provisions. It is rather a Copyright Office bill. The Office submits it as embodying what, with the best counsel available, *including* the Conference, it deems worthy of your consideration. But in calling the Conferences and in submitting the draft it has proceeded upon your suggestion, Mr. Chairman. Apart from the chapter relating to its own administration, it has no direct interest in the bill, except its general interest to secure a general amelioration of the law. It does not offer the bill to you as the unanimous decision of a council of experts: for it contains certain provisions as to which expert opinion as well as substantial interest was divided. It does not offer the bill to you as tested by general discussion: for the bill is only now before the public. It knows already of objection to certain of its provisions, objection which will be entitled to be heard: and it is informed by one critic desiring to be heard that his objections lie against fully half the provisions in the bill.

The bill comes before you with precisely such presumption as its history entitles it to: no less than this, but no more.

The Conference had certain aids, prepared in advance by the Copyright Office: in particular these half-dozen publications (note) showing the existing statute law in this and other countries, all prior enactments in this country, and even a list of the various unenacted bills which represent previous attempts at amendment.

The Conferences, as I have stated, occupied twenty-two sessions. Their labors are evidenced by these four volumes (of typewritten mat-

NOTE.

1. A Statement of the copyright laws of the United States as in force March 3, 1905.
2. Copyright Enactments within the United States (1783–1900). [Bulletin no. 3]
3. Copyright in Congress, 1789–1904 (including complete bibliography of bills, etc.) [Bulletin no. 8]
4. The Provisions of the United States Copyright Laws, with some parallel provisions of foreign copyright laws. [Bulletin no. 9]
5. Special Report on Copyright Legislation, with a bibliographic list of foreign copyright laws in force in 1903.
6. Special bulletins on Copyright in Canada, Copyright in England, Copyright Protection in the British Dominions and the Berne Convention.

ter), which are the stenographer's minutes of the proceedings. The sincerity of the endeavor for a result that should be scientific yet conservative is evidenced by the brevity of the bill. The memorandum of last November contained some 16,000 words; that of March contained some 11,000 words; the bill before you contains little over 8,000 words. The group of statutes which embody existing law comprise about 4,000 words, and they are imperfect, and neither organic nor systematic.

The bill attempts to be both. It is divided, as you see, into eight chapters, with some supplementary miscellaneous provisions. These chapters are: The nature and extent of copyright; The subject matter of copyright; Who may obtain copyright; How to secure copyright; The duration of copyright; The protection of copyright; The transfer of copyright; and The Copyright Office.

I have furnished to your Committee some analysis of it, particularly noting the points in which it abrogates existing provisions of law and the more significant respects in which it modifies or amplifies them. The provisions of existing law which are abrogated are very few; not so many, indeed, as appears under that heading of the memorandum I sent you, because some of these are mere modifications. But the *phraseology* of existing law is only here and there recognizable in the bill. This is because the bill attempts to be systematic and organic; and, second, because it has sought general terms, wherever descriptive, rather than particular specifications. Especially has it preferred this where the specifications might be limiting. This, as I have noted in the memorandum submitted to you, is particularly illustrated by its treatment of the "subject matter." The bill contains only the general statement that it is to include "all the works of an author," leaving the term "author" to be as broad as the Constitution intended: and, as you know, the courts have followed Congress in construing it to include the originator in the broadest sense, just as they have held "writings," as used in the Constitution, to intend not merely literary but also artistic productions. Certain specifications follow, but coupled with the proviso that they shall not be held to limit the subject matter.

The specifications (section 5) substitute so far as possible general terms for particulars. They omit, for instance, the terms "engravings, cuts, lithographs, painting, chromo, statue and statuary." They assume, however, that these will be included under the more general terms as "prints and pictorial illustrations," or "reproductions of a work of art," or "works of art," or "models or designs for works of art." The term "works of art" is deliberately intended as a broader specification than "works of the *fine arts*" in the present statute, with the idea

that there is subject matter (*e. g.* of applied design, yet not within the province of Design patents) which may properly be entitled to protection under the copyright law.

The attempt to substitute general terms for particulars is evidenced also in both the definition of the right and of the acts which constitute an infringement of the right. The present statute (section 4952) defines the right to consist in "the sole liberty" to do certain things. The bill (section 1) defines the right to be "the sole and exclusive right" to do certain things, and it specifies those things; but its specifications are in terms very different from those in the present statute. The present statute (sections 4965, 4966) specifies certain acts which are to be deemed an infringement. The bill, having defined the right of the copyright proprietor as the *exclusive* right to do certain things, defines an infringement to consist in the doing or causing to be done without his consent of any of these things, the right to do or to authorize which is reserved to him. It contents itself with this, adding only the one specification that "*any* reproduction" without his consent "of any work or material part of any work in which [his] copyright is subsisting" shall be an infringement.

So as to the *person* who may obtain copyright. The present statute (section 4951) mentions the "author, inventor, designer or proprietor," and elsewhere (section 4957) the "originator." The bill rests with the term used in the Constitution, "author," and the additional term, "proprietor," which is not merely in the existing statutes, but has been construed in a series of judicial decisions.

Copyright consists in the exclusive right within a defined period to do certain things with certain subject matter and to prevent other people from doing them. The fundamental provisions in a copyright law are, therefore, these: (1) What is the subject matter, (2) what are the acts, (3) how may the exclusive right to do them be secured, and (4) who may secure it? Now, on the third point the bill modifies substantially the existing requirements of law. These make deposit and registration a condition precedent; they require the deposit to be at least coincident with the publication, and they stipulate that failure to comply precisely with this requirement shall avoid the copyright *ab initio*.

The bill (section 9) initiates the copyright from the date of the publication of the work with the notice of copyright affixed. So, in effect, does the present law, provided the deposit and registration be effected then. But by the bill the publication with notice not merely initiates the copyright: it "*secures*" it. Deposit and registration in the Copyright Office are still requisite: but a reasonable period after publi-

cation is allowed for them. The period is thirty days, and, in the case of error or omission, may be even an entire year, but with the proviso that after thirty days no action for infringement can be brought until these formalities have been complied with.

The right is to be *exclusive* "for a limited period." This period is now twenty-eight years, with a possible renewal for fourteen more: a maximum, therefore, of forty-two years. The bill abolishes renewals and provides for three terms according to the subject matter. The shortest is twenty-eight years—for labels and prints relating to articles of manufacture. The second—fifty years—is substantially identical with the present maximum. It applies to some original, and all derivative, works. It would probably cover the majority of the copyright entries. The longest—the life of the author and fifty years after his death—applies only to *original* works, but to most original works.

Upon the reason and merit of these terms, especially the last, you will doubtless hear discussion. I merely call them to your attention, with these suggestions, which have been urged upon us:

First. That the present term of forty-two years makes no certain provision for the author himself during his lifetime, nor for his immediate family after his death. These are grave defects. They are not disposed of by the fact that only a small percentage of authors or their families take advantage of the present privilege of renewal.

Second. That a term as long as life and fifty years exists in no less than fifteen countries, including France; that England, with a minimum term of life and seven years, proposes one of life and thirty years; and Germany, with one of life and thirty years, is discussing one of life and fifty years; and

Third. That a common disposition to question a long term for copyrights on the ground that a short term suffices for patents is based on false analogy. Literary or artistic works and useful inventions may equally be the creations of the mind; and they are coupled in the Constitution: but only as deserving protection. Their character and the duration of the protection required by each may be very different. It is very different. The monopoly is different, the returns to the creator are different, the interests of the public are different. The monopoly by patent in an invention is a complete monopoly of the *idea*; the monopoly by copyright in a literary or artistic work is a monopoly only of the *particular expression* of an idea. The inventor's exclusive control of his idea may bar innumerable other inventions of importance to the public; the author's or artist's exclusive control of his particular expression bars no one but a mere reproducer. The returns to an in-

ventor are apt to be quick; the returns to an author are apt to be slow—and in a book the slower in proportion to its serious merit. The returns to a successful inventor are large; the returns even to a successful author or artist are but moderate. The idea covered by an invention or discovery may concern the essential welfare, even the lives, of the public, and should be freely available at the earliest moment not unjust to the inventor. No particular book or work of art—none at least currently copyrighted—can be said to be *essential* to the welfare or protection of the community. Many a man's pleasure may be enhanced by it, and some men's profit; but no man's essential welfare depends upon it, and no man's life—save perhaps the author's own.

Remedies.—In no respect are the present statutes asserted to be less satisfactory than in their provisions for the protection of the right, and redress to the copyright proprietor for an invasion of it. One inconvenience is that they provide a different class of remedies and recoveries for different subject matter; another is that they confuse the duty of the Government to punish a deliberate piracy as it would any other theft, with the right of the copyright proprietor to compensation for his particular losses. The bill provides uniform remedies; and it divorces the civil action from the criminal. As the Memorandum states this: “*penalties* imposed for acts in the nature of misdemeanors are no longer to be shared by the United States with a person suing for them”; nor “are sums recovered by way of *compensation* to the copyright proprietor to be shared by him with the United States.” Nor is his right to recover such sums to be imperilled by the necessity of proving that the defendant has committed an offense against the community as well as profited at his expense.

The deliberate theft of a dramatic or musical composition by the wilful performance of it for profit without the assent of the author or proprietor is now by law a misdemeanor. The Conference could not see why this provision should not apply to *any* infringement which is both wilful and for profit. Section 25 extends it to all such.

The existing provision [Rev. Stat., sec. 4966] providing remedies and penalties for infringement of dramatic and musical copyrights is of great moment to the dramatists and composers. And now that it is merged in the general provisions of this and other sections of the bill they are in great apprehension lest it may suffer accident, if accident befall these. To guard against this, the general repealing clause of the bill excepts and continues in force sec. 4966 of the Revised Statutes. But it does so with the intention that this exception shall be dropped in case the general provisions stand.

The reason or merit of these and other provisions of the bill will at the proper time have to be made clear to you, if challenged. That is no part of my present duty, which is merely to introduce the bill to your attention with some explanation as to how it came to be and some note of its leading features. But I except two matters. I do so to avoid misapprehension; and I feel free to do so because both involve the administration of the Copyright Office. One is as to fees. The impression has gone out that the fee for registration is to be doubled. The fee for registration is now fifty cents; but fifty cents additional is charged for the certificate, when furnished. The proposed fee is one dollar; but this is to include the certificate, which is to be furnished in every case as a matter of course. It ought to be furnished; and no claimant of copyright ought to rest easy without it. It is the evidence of registration and deposit—indispensable formalities; and it is now to be *primâ facie* evidence in a court of law. If the copyright is worth the fifty cents for registration, it would certainly seem worth the additional fifty cents for the certificate.

On the other hand, the bill tends to reduce the aggregate fees payable by any one publisher—and the aggregate receipts of the Office—by enabling a number of volumes of the same work, and, in the case of photographs, prints, and like articles, an entire series, if registered at the same time, to be registered for a single fee.

The other matter is that of the copyright deposits. The value of these is now prodigious. During last year alone the articles deposited numbered over 200,000. A large proportion of these are of great value to the Library and are drawn up into it. The rest remain in the cellar. The accumulations in the cellar now number a million and a half items. Many of these would be useful in other Government libraries; some of them might be useful in exchange with other libraries; a few might have value in exchange with dealers. The remainder are a heavy charge upon the Government for storage and care, without any corresponding benefit. They ought to be returned to the copyright proprietors if they want them, or, if not wanted, destroyed.

Such dispositions are, I believe, already within the authority of law; but it is fair that they should be expressed. The bill [sections 58 and 59] definitely expresses them. I ask your attention to them in due course. They have been accepted by the Conferences and therefore by the interests outside of the Government most nearly concerned with their operation. But they may awaken some apprehension elsewhere because of a quite common misunderstanding of the significance of the deposit and its relation to the copyright protection. The original pur-

pose of such deposits was the enrichment of the Library. This is clear from their history, both in this country and abroad. They were made a condition of securing copyright, but they had no continuing relation to the copyright once secured. In France, for instance, they were for the benefit and use of the Royal Library; in England they were once for the benefit and use of eleven libraries, and are now for the benefit and use of five libraries; but no one of these libraries is the office of registration for copyrights. The first statute requiring them in this country was that of Massachusetts in 1783, and the statute read that the copyright proprietor should "*present*" two copies of his work to the library of Harvard University "*for the use of said University.*" But neither that library nor the University was made the office of registration for copyrights.

The first act which provided for a deposit in the Library of Congress was the Act of 1846; and this specified that the copy "delivered" was "for the use" of the Library. It required a second copy to be "delivered" to the librarian of the Smithsonian "for the use" of that library. Neither library was then the Copyright Office, or had anything to do with registrations. In 1867 the library of the Smithsonian became a part of the Library of Congress; and the Act of 1870 specified two copies to be addressed to the Library of Congress.

But by this same act the Library of Congress became the office of *registration* for copyrights; and from that time, and because the failure to deposit not later than the date of publication actually avoided the copyright, an impression has grown up that the articles deposited are an integral part of the record of registration and have a peculiar sanctity as such. The *fact* of the deposit has been, and will be, an integral part of the record: and in times past this could most readily be proved by the stamp upon the articles themselves, the law providing neither for a certificate to the claimant admitting the receipt nor an entry in the office records showing it. But hereafter the fact of deposit will be proved by the certificate itself.

There is an impression that the copies deposited are *necessary evidence* of the thing copyrighted; that they are, therefore, essential in litigation. During the past thirty-six years we have record of only four cases in which they have been summoned into court, and in these the necessity was not obvious. For the matter of that, however, there is little prospect that any article of sufficient importance to be subject of litigation would be deliberately destroyed or would fail to be drawn into the permanent collections of the Library.

Having indicated something of what the bill is, let me add a word as to what it is *not*:

First. It is not a codification of the Common law. Even more than the present statutes it leaves to the courts to determine the meaning and extent of terms already construed by the courts. It does this even in cases where the temptation was strong to define and where foreign statutes attempt definition: who is an "author"? for instance; what is "publication"?—in the case of works not reproduced in copies for sale; what is "fair use"? Many such definitions were proposed and discussed, but deliberately omitted as unsafe.

Second. It does not attempt to regulate relations between authors and publishers which are, or may be, matter of particular contract.

Third. It is not an attempt at abstract and theoretic perfection; nor is it an attempt to transplant to this country theoretic, or what might be charged to be sentimental, provisions of foreign law. It tries to be a bill possible for this country at this time and under conditions local here.

It contains some provisions which are neither theoretically sound, nor according to modern usage abroad, nor satisfactory to particular participants in the Conferences. These are a compromise—between principle and expediency, or between one interest and another within the Conferences. The *bill* is a compromise. I doubt if there is a single participant whom it satisfies in every particular.

Fourth. The bill is not a mere congeries of provisions proposed by a selfish group each member of which was considering solely his own particular interest. If it were, it would have required but one session of the Conference instead of twenty-two. It contains, of course, some provisions which concern only particular interests—for instance, the provision as to "sound-records" or that as to affidavit of domestic manufacture: but these are few and easily distinguishable. We trust that they will be distinguished, and full opportunity given for the criticism of them by opposing interests, if such develop; and in the case of the sound-records we are advised that they are likely to. The bill as a whole is the result of a sincere attempt to frame a reasonable general statute. I say "sincere" and I feel the right to say it because I followed the Conferences closely and had the best opportunity to observe their temper and disposition. If some of the interests were "selfish" in one direction, they found opposition in the "selfishness" of others in another direction; and both were under criticism from the general advisers and under the influence and example of the main body. And

neither such interests nor any others participating initiated the Conference nor determined its composition nor controlled its proceedings. The Conference was initiated by the Copyright Office; it was composed of organizations invited by the Office; and it was theoretically held in the Office. The Librarian presided at it; and except for the purpose of some formal resolutions it did not "organize" at all or in any other way pass out of his control.

But if the bill reveal some "selfishness" it is perhaps a selfishness condonable. It is, after all, but the selfishness of men trying to protect their own property. The bill has this purpose. It does not create a new species of property; it merely provides for one recognized by the Constitution and already by statute. It does not withdraw from one man his property in favor of another: it merely *secures* against untimely expropriation, to the man who has created it, a species of property which peculiarly *requires* the protection of the law because the very act—publication—which makes it remunerative lays it open to expropriation; and which is peculiarly *entitled* to the protection of the law because it is this very act and this alone which makes it of use to the public. And it secures this property not permanently but only against an *untimely* expropriation: one which would deprive the author of his fair return and the public of that enrichment which comes of progress in literature and the arts.

But the public, it may be said, was not represented at the Conferences. The public in this matter, Mr. Chairman, belongs to one of four classes: (1) He is the original producer, publisher or manufacturer of the copyright work; or (2) he is one who enjoys the work as a consumer; or (3) he is one who wishes to utilize the work in some other work, or to reproduce and market it for his own benefit, when either of these can be done innocently; or (4) he is the student and critic of the rights and obligations of property and of the regulation of this by law. There may be a fifth class: the mere "pirate." He, to be sure, was not invited to the Conferences; but I do not suppose he will be to your hearings.

But the innocent reproducer was *not* unrepresented at the Conferences, nor in the discussions: in fact, most of the producers were also reproducers and quite insistent upon their convenience as such. The original producers, publishers and manufacturers were there as of right; and the student and critic through their interest and public spirit. As for the consumers: two considerable groups were actually represented and more would have been if organizations could have been found to represent them. Others also spoke for them. But, Mr. Chairman, it is in the interest of the consumer just *because* it is in the interest of

the producer that copyright laws are chiefly designed, have been designed from time immemorial, and were called for by the Constitution. And if this proposed one fails fairly to regard his interests its defects will surely be brought to your attention by the great third estate which is jealous for them—the newspaper and periodical press. For the bill is now before the country.

Finally, Mr. Chairman, notwithstanding the labor put upon it, the bill is probably still imperfect in expressing its *intentions*; and I have no doubt that while it is under consideration those especially concerned will ask leave to submit to you some amendments of phraseology. I understand that any such amendments proposed by participants in the Conference will be communicated first to the Copyright Office, so that they may be formulated by the Register for your convenient consideration; and the Office will as gladly do the same for any that may reach it from other sources.

The relation of the Office to this project has been peculiar. That alone has excused me in introducing the bill to you. Having introduced it, the Office will, with your permission, relapse into its more normal position of informant to your Committee on matters of fact, and an adviser—when its opinion is asked. With the general structure of the bill, including the effect of proposed phraseology, the Office is necessarily concerned. Upon the general principles involved, and upon matters of practice the Office will naturally have an opinion, and may not avoid ultimately expressing this, even though in doing so it incidentally support a provision which concerns particularly a particular interest. It cannot avoid this where a bill is referred to it by your Committee for its opinion; still less can it do so in the present case where it is itself in possession of the reasons which induced the various provisions and the principles supposed to underlie them. It must, as occasion requires, *expound* the bill. Mere *advocacy*, however, of particular provisions it must leave to others.

LIBRARY OF CONGRESS,

COPYRIGHT OFFICE.

WASHINGTON, D. C., June 11, 1906.

Dear Sir:

A copy of the stenographic report of the Congressional Hearing on the Copyright Bill, June 6 to 9, inclusive, is now in the hands of the Register of Copyrights and can be consulted by you for the purpose of revising your remarks, if you so desire.

Persons living out of Washington who cannot call at the Copyright Office for the purpose may obtain a copy of their remarks for revision at their own expense by addressing the stenographers, Messrs. Hanna & Budlong, Columbian Building, Washington, D.C.

The Chairman of the Committee on Patents gives notice, however, that in order to be utilized in printing the report of the Hearing, the revised text of any remarks must be in the hands of the Committee not later than next Saturday, June 16. For this reason participants in the Hearing, living at a distance, who desire copies of their remarks should preferably telegraph to the stenographers.

Respectfully,

THORVALD SOLBERG,

Register of Copyrights.

In reply quote file

No.

LIBRARY OF CONGRESS,

COPYRIGHT OFFICE.

WASHINGTON, D. C. June 20, 1906

In reply quote file

No.

To the participants in the
Conferences on Copyright;

Need has arisen for additional copies of the first two drafts of the Copyright bill. Printed copies of the first edition, October 3, 1905, (in brown covers), and of the second edition, March 3, 1906 (in green covers), were sent to all participants in the Copyright Conferences.

The bill has now been introduced into Congress, and an official text printed, and it is thought possible that some of the participants at the Conferences may be willing to return such copies as they can spare.

Any copies thus returned will be thankfully received.

Respectfully,

Register of Copyrights.

NOTICE FOR SECOND HEARINGS, DEC. 7-11, 1906.

Library of Congress

COPYRIGHT OFFICE

WASHINGTON, D. C., November 22, 1906.

To All Persons Who may be Interested:

The Chairmen of the Senate and House Committees on Patents have requested the Copyright Office to notify you that hearings upon the pending Copyright Bill will be resumed on December 7th and 8th. As in June last, the two Committees will sit conjointly in the Senate Reading Room at the Library of Congress. We presume that the hearing will begin at 10.30 a. m. o'clock on December 7th.

In order to apportion the two days most effectively, it will be a convenience if those desiring to be heard will as soon as possible notify this office, stating the amount of time they will require, and the particular provisions of the bill (so far as these can be indicated) upon which they will desire to speak.

Very respectfully,

Thorwald Solberg
Register of Copyrights.

January , 1907.

Substitute suggested by Copyright Office for Section 18
of the Bill.

To be inserted. Not identified
at time this volume goes to the
Binder. May 20, 1910. H.A.H.

See letter bk, Special, 4 C,
p. 33-34.

January 22, 1907.

THE COPYRIGHT TERM:

Memorandum Accompanying Substitute Suggested by Copyright Office for Section 18 of the Bill

A. The provision ought at least—

- (1) to assure to the author provision for his old age;
- (2) to assure to the community the benefit of his own revision of his works as long as he lives, (only a complete control of them will do this;)
- (3) to enable him to provide for his children until they reach the age where they are likely to be self-supporting, or, if daughters, married;

B. (In the effort to meet the above needs) the provision ought *not* to tie up automatically *all* copyrights whether or not they require a term so long. Experience shows that a large percentage of them do not.

A fixed term of years sufficient to give *complete* assurance under A might be deemed excessive, and in a majority of cases would prove so, for it would have to be based on the earliest book of the longest lived author. It would therefore be open to the objection of B.

To meet the needs of A, therefore, not a fixed term of years, but a term dependent upon the life of the particular author, will best meet the objection of B. This, accordingly, is the basis of copyright terms in most countries of the world. [It insures the provision which all desire for such authors as Dr. Hale, Mr. Clemens, Mrs. Stowe, Washington Irving, etc.,—*without specifying an equal period* for cases that do not require it.]

A further reason for this basis is that it ensures that all the copyrights of a particular author will “fall in” at the same time, thus rendering immediately possible complete editions of his works by any publisher, and entire safety to any other author who may wish to appropriate from them. It is contended that a definite term of years is preferable in that it fixes at the outset the date of expiration of the copyright. This would undoubtedly convenience those interested in having it expire; but their claims are not in any other country considered to weigh against those of the author himself.

The bill provides for the long term the lifetime of the author and fifty years after his death. [The phraseology should be corrected to “remainder of his lifetime” (as in the substitute), as this is what is meant.] A term at least as long exists in no less than fifteen countries, including France. The Office believes that it is none too long to meet

cases admittedly meritorious; and it would indorse such a term as a possible maximum, with some proviso that shall prevent it from operating also as a minimum.

The Office is, however, led to believe that fifty years (beyond life) is not likely to be sustained in Congress. On this assumption it recommends thirty.

The arguments for this are:

- (1) 21 years (after death) is a conventional term in testamentary bequests. But 21 makes certain provision for children only during their minority. It does not give the assurance (in A (3) above) of support for the children until self-supporting, or, if daughters, married.* Thirty years would more nearly give this.
- (2) Thirty years (after death) is the present term in Germany, in Austria, in Switzerland, and in Japan, and the recommended term in England. Under international copyright uniformity is to be sought.

The average term under this provision would be but about fifty years: for we may assume that the important work of an author will be produced at middle age—say forty—and the average of life is but sixty.

But under existing law the author may have as much as 42 years (28 plus renewal 14). If, therefore, the sole term were the remainder of the life of the author and 30 years, an author dying within 12 years after publication would get a shorter term than he is now entitled to.

The substitute meets this by providing that the term shall *not be less* than 42 years. In this it copies the English law.

But (to meet the objections of B) there should be a proviso, and this should, in our opinion, consist in a requirement that after a reasonable period of years the copyright proprietor shall give some positive notice that he desires to keep alive the protection.

We suggest 42 years, since this is the possible term under existing law.

N. B. It may be that an even shorter period will be deemed sufficient. If so, we suggest 28: the notice (to secure extension) being given in the 27th year (instead of the 41st). In this case the 42 might well be dropped out entirely from this subsection, leaving the extension to be merely in the one form (remainder of life and 30 years) without alternative. This would reduce the section to a simple general provision for 28, with privilege of extension on notice except for photographs. It should, however, leave a term of 42 years for posthumous works which would otherwise get less than they now have.

We submit a substitute for the entire section along these lines.

*A youth entering a profession today may not complete his education before he reaches twenty-six. The customary age of marriage is advancing.

From experience it is probable that not more than one-fifth of the copyrights taken out would seek the extension. The remaining four-fifths would conclude there*—conclude from their own indifference or inertia.

The Bill (section 18, subsection (b)) seeks to obviate the danger of an excessive term for articles that do not require it, by distinguishing certain subject-matter and specifying for this a maximum of only 50 years. Except as regards photographs (customarily given brief terms abroad) and posthumous works, the attempt seems to us unsuccessful, and particularly so in its distinctions between subject-matter within the same field. To distinguish artistic or musical or dramatic works from literary works might be feasible, if it were just; but to distinguish one literary work from another literary work is difficult, and the specifications attempted would certainly cause trouble. What is a "compilation," a "dramatization"? The proprietor, whose interest is a long term, would contend it to be one thing, the alleged infringer another. Is a dramatization (as distinguished from a drama) a dramatic work based upon an existing narrative?—then many of Shakespeare's "dramas" were mere dramatizations.

A "translation" might seem a strictly secondary or subsidiary production; but when Pope translates Homer, or Bayard Taylor, Faust, or Longfellow, Dante, there has been produced a literary work which, if not entirely original, and if it could not have existed without the original, is in a fair sense an original contribution to literature, and entitled to stand by itself as such.

A "reproduction of a work of art" might include an etching, of which, in its field, the like might be said.

The "contents of a periodical" would today include almost every variety of original literary contribution. There seems no reason why the term of this should be abridged simply because it appears first in serial form.

The substitute draft omits all the distinctions except as regards photographs—for which it provides 28 years; and posthumous works—for which it provides 42.

The provision (subsection a) for prints and labels relating to articles of manufacture is omitted in accordance with the proposal to strike them out of Section 5 as subject-matter of copyright.

*The fact that they would constitute no argument against the justice of giving the remaining one-fifth the longer protection which they require and desire.

Objections to any Enlargement of the Term:

1. "*A patent has but 17 years.*" The analogy is incomplete. (See introductory remarks at the June Hearing, quoted in note below.)*

2. "*The public ought not to be deprived of the work so long.*" †

It is not copyright that deprives the public of a book. It is copyright that gives the book to the public. The author need not publish his manuscript. What induces him to do so is the assurance that he will get profit out of its sale as a book. The moment he publishes the public gets his work, and continues to get it throughout the term. The public does not get it any more completely after the term expires. In each case it must pay for it. The only difference is that while the term lasts, some part of the price paid goes to the author; after it ends, none may go to him.

* "The third suggestion is that a common disposition to question a long term for copyright, on the ground that a short term suffices for patents, is based upon false analogy. Literary and artistic productions and useful inventions may be equally the creations of the mind, and they are coupled in the Constitution; but they are coupled, it is pointed out, only as deserving protection. Their character, and the duration of the protection required by each, may be very different. It is alleged to be very different. The monopoly is different; the returns to the creator are different, and the interests of the public are different in the two cases. The monopoly by patent in an invention is a complete monopoly of the idea.‡ The monopoly by copyright in a literary or artistic work is a monopoly merely of the particular expression of the idea. The inventor's exclusive control of his idea, it is said, may bar innumerable other inventions, applications of his idea, of importance to the public, while the author's or artist's exclusive control of his particular expression bars no one except the mere reproducer. The returns to an inventor are apt to be quick; the returns to an author are apt to be slow, and the slower in proportion to the serious character of his book, if a book. The returns to a successful inventor are apt to be large; the returns to even a successful author or artist are not apt to be more than moderate.

"Then the idea, it is said, covered by an invention or discovery, may concern the essential welfare, even the lives, of the community, and should be freely available at the earliest possible moment not unjust to the creator of it. Now, it is remarked that no particular book, at least none currently copyrighted today, can be said to be essential to the welfare or protection of the community. Many a man's pleasure may be enhanced by it, some men's profit; but no man's essential welfare depends upon it, and no man's life, save, perhaps, the author's own.

"I communicate those suggestions as having been pressed upon us."

† "The public ought not to be kept so long from the words that breathe and the thoughts that burn" [recent editorial in a prominent newspaper].

‡ Not, of course, the *principle*, for that cannot be patented; but the *idea* which constitutes the patented invention.

The question involved in a long as against a short term, is not a question between the author and the public [*i. e.* the reading public];—it is a question solely between the author with his one publisher, who pays him something for his work, and all the other publishers who may wish to publish his work to their own profit, without paying him anything.

The question is one between publishers, and the public is really little concerned. After the term expires it may be able to select from a greater number of *editions*; but it won't be likely to get any *better* editions, for it is only the publisher who controls a publication, and while he controls it who can securely arrange for the best editions. Nor will the public be likely to get it any cheaper, for it is the interest of both the author and his publisher to sell as many copies as possible while they have the control. And their profit is apt to be greater in a sale of a large edition at a small price than of a small edition at a large price. [The contrary is true of "special" publications sold by subscription. But these are for the connoisseur and collector. They are not the books in mind when the "rights" of the public are referred to—the "right" to have easily within its reach the literature which its education requires.] In no country are good books so cheap as in Germany, and Germany has one of the long terms—life and 30 years.

3. "*After the copyright expires and the book comes into the public domain, competition will reduce the price.*"

Somewhat, no doubt.* But against this the public suffers in that there is no longer an author or publisher who has an interest in keeping a *good* edition on the market.

But there is a competition during the term, and a keen one. This is not between different editions of the same book, but between the book itself and thousands of other books in the market. The book cannot *compel* its own sale. It is not a necessary of life. "Books" may be a necessary; but no particular book (copyrighted today) is. It isn't food, or clothing, or fuel, or oil. It cannot force, it can only *persuade* the reader to buy it; and to persuade successfully, in competition with the thousands of others that are offered to him, including thousands that are in the public domain, it must be both good and cheap.

"The public" implied is the reading public. That is the public the objector has in mind and in whose behalf he speaks.

*How much, however? The author's royalty is commonly but 10–15 per cent. Is fifteen cents a burdensome added exaction upon a purchaser who can afford a dollar book?

There is also the public interested (for profit) in the public domain. This consists (1) of publishers who may desire to publish the work with or without compensation to the author, and (2) of other authors who may desire to appropriate for their own works material from it. The second group can of course have no claim as against the author himself, so long as his own needs require him to exclude them. Nor can the publishers who intend to pay him nothing. A publisher who is willing to pay him something is in better case, but nothing in law prevents such a publisher from competing with the author's publisher for other works by the same author, nor can he fairly ask the law to make good to him at the expense of the author, his failure to succeed in the competition for that particular book.

4. "*Most authors sell their manuscripts outright to the publishers. It isn't the authors, then, who are interested in a longer term—it is only the publishers.*"

[The facts would, we believe, show that the majority of copyright books are published on the royalty basis; but assuming that the manuscript is sold outright] *What* does the author sell? He sells not merely the manuscript, but the right to the exclusive publication of it during the term of copyright. The longer the term, the more profitable the exclusive right, and the greater the price that he will ask and will get.

5. "*But the life of the author!—Why, men live to be eighty or ninety years and more: add thirty to that and you have from one hundred and ten to one hundred and twenty years!*"

It isn't the life of the author—it's the *remainder* of his lifetime after publication of the book. This may be 40 or 50 years, but it may not be one; and it will be less in proportion as his work is mature.

6. "*Granting that provision should be made for such cases as those of Mr. Clemens, Dr. Hale, etc., it oughtn't to apply generally, 'tying up' everything else.*"

It will of itself "tie up" *nothing* else beyond the term (42* years) to which *all* subject-matter is entitled under existing law. The proviso for notice ensures this. If the notice isn't given, the copyright expires absolutely at the end of 42* years. If it is given, this is the best evidence that there is at that date interest in still keeping alive the pro-

* Or by the substitute 28.

tection. This interest is the interest either of the author or of his assignee, the publisher, who has given him a good consideration for it and thus has a claim equal to his.

7. "*We're no objection to favoring the author; but we do object to benefiting the publishers.*"

This objection applies particularly to books. The answers are two:

(1) In modern publishing enterprises it is quite commonly not the author but the *publisher* who takes the initiative. He himself "plans" a book or a "series," and only then engages author or editor to undertake it. This is not true of works of the imagination (including poetry and fiction), of which particularly the objectors are thinking, but it is increasingly true in the case of serious contributions to knowledge: e. g., history, science, dictionaries, cyclopaedias.

In such works the plan may be the most important novelty, and that which gives the publication value as against others of the same class. The *facts* may be common: it is the *plan* and *method* of presentation which, *combined with the author's skill in presentation*, sell the work. Where, therefore, the publisher originates the plan and method he is in effect a joint author,—and entitled to consideration as such.

(2) But in *all* cases he is at least the representative of the author. If the work is published on the royalty basis, he represents him in manufacturing, exploiting and selling the work, and continues to so long as the term and this contract continue. If he buys the manuscript outright, he buys and pays for something more than the manuscript: he buys and pays for all the privileges incident to publication which the author can sell him. Having bought and paid for them and thus become the assignee of the author as regards them, the publisher should have equal consideration with him. To say that he should not is to say that the author cannot sell him all that he himself owns: the effect of which would be to *reduce the author's own remuneration*, for the less he has to sell the smaller the sum he will get for it.

GENERAL TERM OF COPYRIGHT IN VARIOUS COUNTRIES.

1. FIFTEEN YEARS FROM PUBLICATION.

Greece.

2. FORTY-TWO YEARS FROM REGISTRATION, IN TWO TERMS OF TWENTY-EIGHT YEARS AND FOURTEEN YEARS.

United States, Canada, Newfoundland (copied from the United States legislation).

3. FORTY-TWO YEARS FROM PUBLICATION, OR LIFE OF AUTHOR AND SEVEN YEARS.
See No. 7 below.

4. FIFTY YEARS FROM PUBLICATION.

Brazil, The Netherlands.

5. LIFE OF AUTHOR, OR AT LEAST FORTY YEARS AFTER PUBLICATION.

Italy (with a second period of 40 years' enjoyment of royalty of 5% on publication price), Turkey.

6. LIFE OF AUTHOR AND FIVE YEARS.

Cape of Good Hope (or 30 years from publication), Chile (with possible special extension to 10 years)

7. LIFE OF AUTHOR AND SEVEN YEARS AFTER HIS DEATH, OR FORTY-TWO YEARS FROM PUBLICATION, WHICHEVER IS LONGER.

Great Britain—Australia, India, Natal, New South Wales, New Zealand, South Australia, Victoria, Western Australia—also Siam.

[The English Copyright Commission of 1878 recommend a term of life of author and thirty years, and that has been the term proposed in subsequent English copyright bills.]

8. LIFE OF AUTHOR AND TEN YEARS AFTER HIS DEATH.

Roumania.

9. LIFE OF AUTHOR AND TWENTY YEARS AFTER HIS DEATH.

Peru, Haiti (life of author, and life of his widow, their children for 20 years, or, if no children, heirs or assigns for 10 years).

10. LIFE OF AUTHOR AND TWENTY-FIVE YEARS AFTER HIS DEATH.

Salvador.

11. LIFE OF AUTHOR AND THIRTY YEARS AFTER HIS DEATH.

Austria, Germany, Japan, Switzerland.

[This term of life of author and thirty years, was recommended by the English copyright commission of 1878, and has been the term proposed in subsequent English copyright bills.]

12. LIFE OF AUTHOR AND FIFTY YEARS AFTER HIS DEATH.

Belgium, Bolivia, Costa Rica, Denmark, Ecuador, Finland, France, Hungary, Luxembourg, Monaco, Norway, Portugal, Russia, Sweden, Tunis.

13. LIFE OF AUTHOR AND EIGHTY YEARS AFTER HIS DEATH.

Colombia, Spain.

14. PERPETUAL COPYRIGHT.

Guatemala, Mexico, Venezuela, and (?) Egypt.

General term

DURATION OF COPYRIGHT IN VARIOUS COUNTRIES.

1. FIFTEEN YEARS FROM PUBLICATION.

Greece.

2. FORTY-TWO YEARS FROM REGISTRATION, IN TWO TERMS OF TWENTY-EIGHT YEARS AND FOURTEEN YEARS.

United States, Canada, Newfoundland (copied from the United States legislation).

3. FORTY-TWO YEARS FROM PUBLICATION, OR LIFE OF AUTHOR AND SEVEN YEARS.
See No. 7 below.

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Colombia, Spain.

14. PERPETUAL COPYRIGHT.

Guatemala, Mexico, Venezuela, and (?) Egypt.

Library of Congress.

WASHINGTON, D. C., March 18, 1908.

To All Persons who may be Interested:

The Chairmen of the Senate and House Committees on Patents have requested the Copyright Office to notify you that hearings upon the pending Copyright Bills will be held on Thursday, Friday and Saturday, March 26th, 27th and 28th.

The two committees will sit conjointly in the Senate Reading Room at the Library of Congress. The hearings will begin at 10 o'clock, Thursday, March 26th.

A handwritten signature in cursive script, reading "Herbert Putnam".

Librarian of Congress

IN THE SENATE OF THE UNITED STATES.

MARCH 10, 1908.—Referred to the Committee to Audit and Control the Contingent Expenses of the Senate and ordered to be printed.

Mr. SMOOR submitted the following

RESOLUTION:

1 *Resolved*, That the Committee on Patents, or any sub-
2 committee thereof, be, and the same is hereby, authorized
3 and directed to investigate, in conjunction with the Committee
4 on Patents of the House of Representatives, all matters per-
5 taining to the copyright laws; to send for persons and papers;
6 to administer oaths, and to employ a stenographer to
7 report such hearings as may be had in connection with such
8 investigation and have the same printed for its use; that the
9 committee be authorized to sit during the sessions of the
10 Senate, and that all expenses of such investigation be paid
11 out of the contingent fund of the Senate.

LIBRARY OF CONGRESS,
COPYRIGHT OFFICE.

MEMORANDUM.

REFERRING TO printed report for Hearings, Mar. 26-28, '08 sent as follows:-

May 9, 1908.

To the Register of Copyrights:

Those present at 3 conferences, 3 Hearings, those who made sugges-	
tions, etc. (Not the full list)-----	162
Library periodicals-----	2
Publishers' Weekly-----	1
Music periodicals-----	10
Mr. Cutter's list of librarians-----	20
Mr. R. R. Bowker (by request)-----	2
Mr. W. A. Jenner-(by request)-----	2

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A.C.K.

TB-WBH.

LIBRARY OF CONGRESS
COPYRIGHT OFFICE
WASHINGTON

January , 1909.

Dear Sir:-

I am sending you by the same post a copy of my printed report on the Berlin Conference, which I trust you will safely receive.

I also transmit a copy of the last general Copyright Bill presented to the Congress of the United States. This bill should be interesting to you as embodying a number of the principles of the Berlin Convention. Many minor changes and the provisions dealing with the reproduction of music by means of mechanical instruments are introduced upon the responsibility of the Member presenting the bill.

The important changes of special interest to foreigners are the following:

- (1) The type-setting clause is abolished so far as concerns books produced abroad in languages other than English.
- (2) The term of copyright is made the life of the author and fifty years after his death, with a term of fifty years from publication in the case of periodicals, cyclopædic and other composite works, works by a corporate body or employer and posthumous works. To agree, also, with the abolition in the Berlin Convention of the provision of the Berne Convention that copyright shall continue till the end of the last year of the term, that provision has been stricken out of the bill.
- (3) The bill does not require any notice upon any original work of art, such as a drawing, painting, or work of sculpture. This in line with the decision rendered by the Supreme Court of the United States in the Werckmeister cases.
- (4) The provision contained in previous prints of the bill to

require the reservation of the right of public performance in the case of music has been stricken out.

(5) Cinematographic productions are made subject-matter of copyright, and the copyright proprietor is given the sole right to authorize the reproduction or the public representation of his work by means of the cinematograph.

(6) A simpler and more direct language is substituted in the section dealing with the required notice of copyright.

It should be understood that this is a personal bill of the Member of Congress introducing it. He is a member of the Committee on Patents to which the copyright bills are all referred, and also a member of the sub-committee on copyright, but whether his bill, in whole or in part, would be accepted by the Committee on Patents remains to be seen. It is, however, of interest and importance that a bill embodying the liberal provisions indicated above has been laid before Congress and printed, so that it becomes a public measure open for the consideration of all persons interested in the subject.

With the best wishes for the new year, I beg to remain,

Cordially yours,

LIST OF COPYRIGHT BILLS LEADING TO THE ACT OF MARCH 4, 1909.

59th Cong., 1st Sess.

(1) S. 6550, May 31, 1906, Mr. Kittredge.

(2) H.R. 19855, May 31, 1906, Mr. Currier.

59th Cong., 2d Sess.

(3) S. 6550, (Confidential redraft) Jan. 17, 1907, Mr. Kittredge.

(4) H.R. 19855 (Confidential redraft) Jan. 25, 1907, Mr. Currier.

(5) S. 8190, Jan. 29, 1907, Mr. Kittredge.

(6) H.R. 25155, Jan. 29, 1907, Mr. Currier.

(7) " " Jan. 30, 1907, " "

60th Cong., 1st Sess.

(8) H.R. 245, Dec. 2, 1907, Mr. Currier.

(9) " " " " " " " *(Reprint)

(10) S. 2499, Dec. 16, 1907, Mr. Smoot.

(11) S. 2900, Dec. 18, 1907, Mr. Kittredge.

(12) H.R. 11794, Jan. 6, 1908, Mr. Barchfield.

(13) " " " " " " " *(1st reprint)

(14) " " " " " " " ** (2d reprint)

(15) H.R. 21592, May 4, (cal. day May 5), 1908, Mr. Washburn.

(16) H.R. 21984, May 12 (cal. day May 13), 1908, Mr. Sulzer.

(17) H.R. 22071, May 12 (cal. day May 21), 1908, " "

(18) H.R. 22185, May 12 (cal. day May 26), 1908, Mr. Currier.

60th Cong., 2d Sess.

- (19) H.R. 24782, Dec. 19, 1908, Mr. Earchfeld.
- (20) H.R. 25162, Jan. 5, 1909, Mr. Sulzer.
- (21) H.R. 26282, Jan. 15, 1909, Mr. Washburn (Administrative provisions)
- (22) H.R. 27510, Jan. 28, 1909, Mr. Washburn.
- (23) H.R. 28192, Feb. 15 (cal day Feb. 17), 1909, Mr. Currier.
- (24) " " Feb. 22, 1909, Mr. Currier. Reported bill.
- (25) S. 9440, Feb. 22, 1909, Mr. Smeot.
- (26) Amendments to H.R. 28192, Feb. 26, 1909. (2DP.)
- (27) S. 9440, Mar. 1, 1909, Mr. Smeot. Reported bill.
- (28) [Public 549] . Act of March 4, 1909.

The Publishers' Weekly.

FOUNDED BY F. LEYPOLDT.

JULY 3, 1909.

The editor does not hold himself responsible for the views expressed in contributed articles or communications.

All matter for advertising pages should reach this office not later than Wednesday noon, to insure insertion in the same week's issue.

Publishers are requested to furnish title-page proofs and advance information of books forthcoming, both for entry in the lists and for descriptive mention. An early copy of each book published should be forwarded, as it is of the utmost importance that the entries of books be made as promptly and as perfectly as possible. In many cases booksellers and librarians depend on the PUBLISHERS' WEEKLY solely for their information and guidance in buying books. The Record of New Publications of the PUBLISHERS' WEEKLY is the material of the "American Catalog," and so forms the basis of booktrade bibliography in the United States.

"I hold every man a debtor to his profession, from the which, as men do of course seek to receive countenance and profit, so ought they of duty to endeavor themselves by way of amends to be a help and an ornament thereunto."—LORD BACON.

THE COPYRIGHT CODE: ITS HISTORY AND FEATURES.

THE new copyright code became operative July 1, 1909, and is now in force. In view of its importance, a retrospect of its history and some further comment on its character may be of interest.

The passage of the new copyright code on the last day of the Sixtieth Congress makes an important stride in American copyright progress, though it falls far short of the aim and hope of the friends of copyright. It marks also an important change in legislative method, and probably no bill which had ever come before Congress has had more careful and comprehensive workmanship in the framing. At the initiative of Senator Kittredge and Librarian Putnam three important conferences, representing all classes interested in copyright, *pro* or *con*, (with the exception of the "canned music" interests, not then organized, and so overlooked,) the first two at New York and the third at Washington, each occupying several days, gave detailed consideration first to the basic suggestions of the American Copyright League, and later to actual drafts of a bill prepared by Register of Copyrights Solberg. The measure thus framed, as redrafted under the immediate supervision of Librarian Putnam, was made the basis of the first bills, and was considered in joint session by the Senate and House Committees on Patents at several public hearings, at which the "canned

music" interests came to the front, as well as at private sessions, and the final form of the Currier bill was shaped in the sessions of the sub-committee, which made the final decisions and gave final touches to the phrasing of the bill. Throughout, the representatives of the legal profession, and particularly Chairman Stewart, of the American Bar Association committee, took much part in the framing of the measure. As a consequence of this preliminary work, and at the insistence of Chairman Currier in the House and of Senator Smoot in the Senate, the measure became law, almost without discussion or consideration by the Congress itself, and the student of legislative methods will take note of this measure as the most remarkable example of legislation by committee rather than by the Congress as such.

It is most fair and fitting that the new measure should be known as the Currier Law, for to the concentration, industry, patience and persistence of Chairman Currier is due, in chief measure, the progress and passage of the new copyright law. It was in some respects unfortunate that, in his desire to assure the passage of the bill without jeopardy, he carried compromise with insistent interests such as the "canned music" pirates and the representatives of the Typographical Unions, almost to the point of surrender of property rights. The owner may have his umbrella so long as he doesn't unroll it, provided it is made in America, and nobody else wants it, and it doesn't rain—so the critics of the bill may say. But, all this being said, it is of great and practical value to the producing class and thus, in the long run, to the public. Senator Kittredge, the former chairman, and Senator Smoot, the present chairman of the Senate Committee on Patents, should also have full meed of praise for their work on and for the bill. Indeed, the members of both committees are entitled to the greatest credit for the patient and careful attention, which they have given throughout. In the House committee Mr. Washburn and Mr. Barchfeld stood stoutly for the rights of authors, and Mr. Sulzer represented especially dramatic and musical composers. To Librarian Putnam, for his unfailing tact and thorough mastery of the situation from point to point, and to Register Solberg for his careful detail work, no less praise should be given. Finally, it is gratifying that President Roosevelt, himself an author and a member of the Authors' Club, who had invited attention to copyright reform in his message of 1905, should have been able to sign the meas-

ure as one of the last acts of his illustrious administration.

The book publishing interests were represented with characteristic alertness and industry by George Haven Putnam, secretary of the American Publishers' Copyright League, with the co-operation of President W. W. Appleton and Treasurer Charles Scribner. They acted in close touch with the delegates of the American [Authors] Copyright League, Vice-President R. R. Bowker, Secretary R. U. Johnson and Treasurer Munroe Smith. President Stedman, of that body, took part in the conferences as president of the National Institute of Arts and Letters, and Vice-President Bronson Howard as president of the American Dramatists' Club, and there is sadness in the thought that both these died before seeing the completion of their labors.

For the first time the copyright statute is now a comprehensive act, all previous enactments having been repealed by this inclusive measure. What was fast becoming a confusion worse confounded has now been made a consistent and comprehensive body of law—consistent perhaps rather in a practical way than in theory. Any new law opens new questions of interpretation, and doubtless this will be the case with the new copyright code; but on the whole the unification of the law has been accomplished.

The comprehensive statement that copyright may include "all the writings of an author," coupled with the very full classification practically construing that constitutional word, and the protection of all existing rights under common law, equity or statute, give the new code the broadest foundation. Copyright is secured by publication with notice of copyright, which is now reduced to the simplest and most comprehensive forms, but for enforcement requires registration, (with affidavit in the case of books, periodicals and illustrations,) and the deposit of copies; and the copyright is forfeited by failure to deposit after due notification or by violation of the manufacturing clause. These forfeiture provisions are, however objectionably drastic. Publication date is defined as that on which copies are first placed on sale, sold or publicly distributed under authority of the copyright proprietor. The art, musical and dramatic provisions are greatly strengthened, (except as to imprisonment of "fly-by-night" offenders,) and the legal provisions are made much clearer and more effective for the pun-

ishment of infringers and the recovery of damages.

One definite gain is the lengthening of the copyright period. It is a disappointment to the friends of copyright that the term was not made life and fifty years, in accordance with the term adopted at Berlin for the Copyright Union. The extension of the renewal term by fourteen years, by a simplified procedure confined to record only, makes a total of fifty-six years, and it is true, as Mr. Clemens has so emphatically pointed out, that not many books survive this period. It is perhaps to Mr. Clemens' insistence on this point that we owe the failure to adopt life and fifty years as the copyright period.

In respect to the extension of time on existing copyrights, the omission of the Monroe Smith provision, probably inadvertent rather than purposed, puts the original publisher of a book or other work at disadvantage at the expiration of the present term.

The protection of musical authors against mechanical reproduction of their works, pointed out by the courts as a proper subject for legislation, has been accomplished in part by the act under a license system which, while limiting their actual control over their works, safeguards the right of the musical author to forbid mechanical reproductions and prevents appropriation without return to him. By this plan the original publisher, who is the direct agent of the composer, has no advantage over the rival manufacturer, and it would have been more fair if secondary licensees should be charged a slightly increased rate of royalty.

The manufacturing clause, under pressure from the Typographical Unions and other mechanical interests, has been strained to the breaking point. The inclusion of the Bowker provision, excepting from the manufacturing clause "the original text of a foreign work in a language other than English," originally introduced at the request of the American [Authors] Copyright League by Mr. McCall as a separate bill, removes the danger of reprisal from Germany and other nations, and probably serves the interest of printers by promoting the publication of American-manufactured copyright translations of works thus made known in America. But the addition of binding, which is quite extraneous to the printed book, as a *sine qua non* of copyright, is a serious mistake, and the unnecessary affidavit provision will be a serious burden to the Copyright Office as well as a nuisance to publishers. It is a pity that the pro-

motors of this plan had not confined themselves to requiring proof of American manufacture in cases only where an affidavit on information and belief questioning such manufacture had been filed in the Copyright office.

The permission given to librarians and to individuals to import copyright works without permission of the copyright proprietor, first embodied in our law of 1891, seriously restricts the property rights of the author, and is an interference with publishing arrangements to his considerable detriment. In view of the controversy as to practice in other countries, we had asked Mr. George Haven Putnam, while in London, to obtain specific information, and his valuable report is printed in this issue.

It will be neither fair nor wise for the friends of copyright to attempt amendatory legislation in the Sixty-first Congress. The Patents Committee have had a surfeit of copyright for some years past, and have now on their hands the obnoxious manufacturing clause of the new English patent law, which is a boomerang from our copyright manufacturing clause. But in the ensuing Congress it may be practicable to remedy some of the incidental objections, and the new code gives opportunity for such amendment in a consistent manner. It will be a later task for the friends of authors' rights to obtain such more vital amendment of our copyright code as will free authors from the restrictions now placed upon their rights in their own property, and ultimately make it possible for the United States of America to take its proper place in the family of nations as a signatory power in the Berne-Berlin convention.

COPYRIGHT CODE DEFECTS.

THE following are the features in which the new code is unsatisfactory to the friends of unrestricted property rights in intellectual productions:

SEC. 1. *e.* The proviso curtailing the rights of musical authors as to mechanical reproductions.

SEC. 13. The addition of the words "and the copyright shall become void" (in case of non-deposit of copies), which makes a double, indeed triple, penalty and involves forfeiture on a technicality, while denial of the right to proceed against infringers until such deposit is made, is quite sufficient.

SECS. 15-17. The manufacturing clauses, which prevent participation by this country in the Berne Copyright Union, particularly as to binding and illustration. The affidavit clause is considered needlessly burdensome.

A less objectionable form, admissible as a compromise, was as follows, part in brackets preferably omitted:

SEC. 15. That of the printed book or periodical specified in section five, subsections (a) and (b) of this Act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this Act, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photo-engraving process, then by a process wholly performed within the limits of the United States, and the printing of the text of the said work shall be performed within the limits of the United States [which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process or photo-engraving process, except where in either case the subjects represented are located in a foreign country]; but they shall not apply to works in raised characters for the use of the blind, or to books published abroad in the English language seeking ad interim protection under this Act.

SEC. 16. That in case the Register of Copyrights shall receive notice, upon information and belief, or shall have other reason to believe that the copies so deposited have not been manufactured within the limits of the United States as before provided, he shall require an affidavit, under the official seal of any officer authorized to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorized agent or representative residing in the United States, or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made within the limits of the United States from type set therein; or, if the text be produced by lithographic process, or photo-engraving process, that such process was wholly performed within the limits of the United States, and that the printing of the text of the said book has also been performed within the limits of the United States. Such affidavit shall state also the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, or photo-engraving process or printing were performed and the date of the completion of the printing of the book or the date of publication.

SEC. 17. That any person who, for the purpose of obtaining registration of a claim to copyright, shall knowingly make a false affidavit as to his having complied with the above conditions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, and all of his rights and privileges under said copyright shall thereafter be forfeited.

SEC. 23. Authors and publishers desired a term of life and fifty years, in accord with the Berlin agreement, as embodied in the following draft:

That the copyright secured by this Act shall endure:

(a) In the case of any posthumous work, or of any periodical or other composite work, or of any work copyrighted by a corporate body (otherwise than as assignee of the individual author or authors), or by an employer for whom such work is made for hire, for fifty years from the date of first publication;

(b) In the case of any work not specified in subsection (a) of this section, but including a contribution to a periodical when such contribution has been separately registered, for the lifetime of the author and for fifty years after his death (or if a work by joint authors until fifty years after the death of the last survivor of them); and it shall be the duty of executors, administrators, or assigns of such author to record in the copyright office the date of his death.

In a work published anonymously or under an assumed name, copyright shall subsist for the same period as if the work had been produced bearing the author's true name, provided that at least one year before the expiration of fifty years from the date of publication the true name of the author shall be registered in the copyright office. In all of the above cases the term shall extend to the end of the calendar year of expiration.

SEC. 24. The bill omits the provision asked for by publishers, with the concurrence of the authors, known as the Munroe-Smith proviso:

And provided further, That if such subsisting copyright shall have been assigned or a license granted therein for publication, and if such assignment or license shall contain provision for payment of royalty, and if the renewed copyright for the extended term provided in this Act shall not be assigned nor license therein granted to such original assignee or licensee or his successor, said original assignee or licensee or his successor, shall nevertheless be entitled to continue to publish the work on payment of the royalty stipulated in the original agreement; but if such original assignment or license contain no provision for the payment of royalty, the copyright shall be renewed and extended only in case the original assignee or licensee or his successor shall join in the application for such renewal and extension.

SEC. 31. The importation clauses, while absolutely prohibiting importation of foreign-made copies even for the author himself, omit the words "with the written consent of the copyright proprietor," from (d) first and third, emphasized by publishers as necessary to secure the American market, as previous to 1891, and in accord with our patent laws, and the copyright provisions of other countries.

SEC. 53. Omits, in view of the voiding for non-deposit, the desirable proviso: Provided, That no breach of such rules or regulations shall affect the validity of the copyright.

These variations from the bill as supported by publishers are here recorded for possible use in case of future movements for amendment.

THE COPYRIGHT CAMPAIGN.

CHRONOLOGICAL LIST OF DOCUMENTS, ETC., LEADING UP TO THE COPYRIGHT LAW OF

MARCH 4, 1909.

• 1903, Dec. 1. "Report on copyright legislation" by the Register of Copyrights, appended to the "Report of the Librarian of Congress for 1903," reprinted separately March 15, 1904, 159 pp. 8°, including:

(a) "Revised Statutes relating to copyright, with notations of provisions of Act of July 8, 1870, and all subsequent enactments," reprinted separately March 21, 1904, large writing paper edition, 55 pp. 4°;

(b) "Bibliographical list of foreign copyright laws in force," reprinted separately March 31, 1904, as Copyright Office bulletin no. 7, 86 pp. 8°.

See also paragraph in the "Librarian's Report for 1903," calling attention to the Register's presentation and recommendations, p. 57. ○

• 1905, Jan. 26. Letter by the Register of Copyrights in support of the *ad interim* copyright bill (Act of March 3, 1905), printed in Senate Report 3380 (58th Congress, 3d session).

— Jan. 27. Announcement by Senate Committee on Patents that: "It is the purpose of your committee to attempt a codification of the copyright laws at the next session of Congress." (See Senate report 3380, p. 2.)

Letter from Senator A. B. Kittredge to the Librarian of Congress, suggesting that the librarian call a conference to consider a codification of the copyright law.

— April 10. Letter of the Librarian of Congress announcing the copyright conference, in compliance with Senator Kittredge's suggestion (printed in "Report of the Librarian, 1905," pp. 85-88). See also PUBLISHERS' WEEKLY, March 11, 1905, p. 801.

— May 31-June 1. Conference on copyright, first session, at City Club, New York (PUBLISHERS' WEEKLY, June 3, 1905, p. 1551. Ed.: June 10, p. 1594). discussing:

(a) American [Authors'] Copyright League, "Memorandum, re Copyright revision";

(b) "Provisions of the U. S. laws with a summary of some parallel provisions of the copyright laws of foreign countries," compiled by the Register of Copyrights. (Copyright office bulletin, no. 9.) 51 pp. 4°, 1905.

— Oct. 9-23. "Memorandum draft of a bill to amend and consolidate the acts respecting copyrights," by Thorvald Solberg, Register of Copyrights. Tentative text printed as manuscript by the Copyright Office, in eleven sections, and distributed to invite criticism and suggestion. [66] pp. 4°.

— Oct. 23. "Memorandum draft of a bill to amend and consolidate the acts respecting copyrights." By Thorvald Solberg, Register of Copyrights. (Copyright Office bulletin, no. 10, first print.) 74 pp. 4°.

— Nov. 1-4. Conference on copyright, second session, at City Club, New York (PUBLISHERS' WEEKLY, Nov. 11, 1905, p. 1270), discussing:

Memorandum draft (first print), by Register of Copyrights.

—Dec. 5. Message of the President of the United States urging that prompt consideration be given to the proposed copyright bill. (Congressional Record, v. 40, p. 102. See also PUBLISHERS' WEEKLY, Dec. 9, 1905, p. 1765.)

—December. "Copyright revision" (printed as manuscript), by R. R. Bowker, Vice-President American [Authors'] Copyright League, with draft of bill, and letters to the Librarian of Congress.

1906, March 2. "Memorandum draft of a bill to amend and consolidate the acts respecting copyright." By Thorvald Solberg, Register of Copyrights. (Copyright Office bulletin no. 10, second print.) 57 pp. 4°.

—March 6. Letter from the Librarian of Congress to the organizations represented at the recent Conference on Copyright, and to be represented at the coming conference, March 13, 1906.

—March 13-16. *Conference on copyright*, Third session, at Library of Congress, Washington, D. C. (PUBLISHERS' WEEKLY, March 24, 1906, p. 1039), discussing: Memorandum draft (second print), by Register of Copyrights.

—March 30. "Provisions under consideration for a bill to amend and consolidate the acts respecting copyright." Proof copy, printed for discussion. Printed by Library of Congress, March 30, 1906. 32 pp. 4°.

—May 1. Statement of American [Authors'] Copyright League (PUBLISHERS' WEEKLY, May 1, 1906, p. 1566).

—May 19. "Draft of a proposed bill to amend and consolidate the acts respecting copyright." Proof copy. Printed by Library of Congress, May 19, 1906. 26 pp. 4°. This draft, as well as Provisions above cited, were prepared by the Librarian of Congress, with the co-operation of law officers of the Government and the chairmen of the Bar Association committees.

—May 31. A bill to amend and consolidate the acts respecting copyright, introduced Thursday, May 31, 1906. Referred to the Committees on Patents and Copyrights. (59th Congress, 1st session, Senate bill 6330, Senator Kittredge. H. R. bill 19853, Chairman Currier.) Same: Copyright Office print. 25 pp. 4°. (PUBLISHERS' WEEKLY, June 9, 1906, p. 1627.)

—June 6. "Copyright bill" (S. 6330; H. R. 19853). Statement by the Librarian of Congress to the Committees [on Patents] at the first public hearings, June 6, 1906. 12 pp. 4°.

—June 6. "Copyright bill. Memorandum A. Some leading features; B. Provisions of existing law which are omitted from the bill." By Register of Copyrights. 6 pp. 4°.

—June 6-9. *First public hearings* on the copyright bill before the House and Senate Committees on Patents, held in the Senate Reading Room of the Library of Congress. Stenographic report: "Arguments before the Committee on Patents of the House of Representatives, conjointly with the Senate Com-

mittee on Patents on the bills S. 6330 and H. R. 19853. June 6, 7, 8 and 9, 1906." xviii, 217 p. 8°, 1906. (PUBLISHERS' WEEKLY, June 16, 1906, p. 1637.)

—June 12. Resolution of the Senate Committee on Patents that: "Pending further hearings upon the bill (S. 6330; H. R. 19853), the Register of Copyrights is requested to keep record of the discussion of its provisions; and to receive in behalf of the committee, as well as of the Copyright Office, suggestions for its amendment, whether in form or substance, and to digest these for convenient consideration by the committee."

—Nov. 22-Dec. 29:

(a) Nov. 22. "Amendments proposed to Copyright bill (S. 6330; H. R. 19853), together with other criticisms and suggestions received and noted to date by the Copyright Office." [Part 1.] 131 pp. 4°.

(b) Dec. 29. "Amendments proposed to the Copyright bill (S. 6330; H. R. 19853), together with other criticisms and suggestions received and noted to date by the Copyright Office." Part 2. 107 pp. 4°.

(c) "The Copyright bill (S. 6330; H. R. 19853). Comment upon the bill and upon certain criticisms thereof by the Copyright Committees of the American Bar Association (First Committee) and the Association of the Bar of the City of New York." Part 3. 35 pp. 8°.

—Dec. 3. "The copyright bill (S. 6330; H. R. 19853), Fifty-ninth Congress, First session, compared with copyright status now in force and earlier United States copyright enactments." By Thorvald Solberg, Register of Copyrights. (Copyright Office bulletin, no. 12.) 86 pp. 4°.

—Dec. 7-11. *Second public hearings* on the bill before the House and Senate Committees on Patents, held in the Senate Reading Room of the Library of Congress. Stenographic report: "Arguments before the Committees on Patents of the Senate and House of Representatives, conjointly, on the bills S. 6330 and H. R. 19853. December 7, 8, 10 and 11, 1906." 449 p. 8°. (PUBLISHERS' WEEKLY, Dec. 15, 1906, p. 1808.)

1907. Copyright bills and reports presented to the 59th Congress, 2d sess.:

S. 6330. Senator Kittredge. Senate Committee draft, Jan. 17, 1907. (Printed at the request of the Chairman of the Senate Committee on Patents. Confidential.)

H. R. 19853. Chairman Currier. House Committee draft, January 25, 1907. (Printed at the request of the Chairman of the H. R. Committee on Patents.)

S. 8190, reported by Senator A. B. Kittredge, Jan. 29, 1907.

H. R. 25133, introduced by Hon. F. D. Currier, Jan. 29, 1907.

H. R. 25133, committed to the Committee of the Whole House, Jan. 30, 1907.

H. R. Rept. 7083, to accompany bill H. R. 25133, Jan. 30, 1907.

S. Rept. 6187, to accompany bill S. 8190, Feb. 5, 1907.

S. Rept. 6187, Pt. 2, to accompany bill S. 8190, Feb. 7, 1907. (Views of Minority.)

H. R. Rept. 7083, Pt. 2, to accompany bill H. R. 25133, March 2, 1907. (Views of the Minority.)

— Copyright bills and reports presented to 60th Congress, 1st sess.:

H. R. bill 243, introduced by Hon. F. D. Currier, Dec. 2, 1907. (Reprinted 243*, Dec. 2, 1907.)

S. 2499, introduced by Senator R. Smoot, Dec. 16, 1907.

S. 2900, introduced by Senator A. B. Kirtledge, Dec. 18, 1907.

H. R. 11794, introduced by Hon. A. J. Barchfeld, Jan. 6, 1908. (Reprinted twice, 11794* and 11794**, Jan. 6, 1908.)

1908, March. The Copyright Bills in comparison and compromise, by R. R. Bowker, as vice-president American [Authors] Copyright League (PUBLISHERS' WEEKLY, March 7, 1908, p. 1071-1086).

— March 26-28. *Third public hearing* on the copyright bill before the House and Senate Committees on Patents, held in the Senate Reading Room of the Library of Congress. Stenographic report: "Revision of copyright laws. Hearings before the Committees on Patents of the Senate and House of Representatives on pending bills to amend and consolidate the acts respecting copyright. March 26, 27 and 28, 1908." 463 pp. 8°.

NOTE.—Contains combined indexes for the three volumes of hearings. (See also PUBLISHERS' WEEKLY, April 9, 1908, p. 1625.)

Copyright bills presented to 60th Congress, 1st sess., continued:

H. R. 21592, introduced by Hon. C. G. Washburn, May 4 (calendar day May 5), 1908.

H. R. 21984, introduced by Hon. William Sulzer, May 12 (calendar day May 18), 1908.

H. R. 22071, introduced by Hon. William Sulzer, May 12 (calendar day May 21), 1908.

H. R. 22098, introduced by Hon. S. W. McCall, May 12 (calendar day May 22), 1908.

H. R. 22183, introduced by Hon. F. D. Currier, May 12 (calendar day May 26), 1908.

— Copyright bills presented to 60th Congress, 2d session:

H. R. 24782, introduced by Hon. A. J. Barchfeld, Dec. 19, 1908.

H. R. 25162, introduced by Hon. W. Sulzer, Jan. 5, 1909.

H. R. 26282, introduced by Hon. C. G. Washburn, Jan. 15, 1909.

— Oct. 14-Nov. 14. International Congress for the Revision of the Berne Copyright Convention, Berlin, Germany, at which Thorvald Solberg, Register of Copyrights, acted as United States delegate.

— Dec. 14. Message from the President of the United States, transmitting a copy of the Report by the Register of Copyrights of the Library of Congress on the Proceedings of the International Congress for the revision of the Berne Copyright Convention, etc. H. R. Doc. 1203. (60th Congress, 2d session.) 34 pp. 8°.

— Dec. 28. "International Copyright Union, Berne Convention, 1886; Paris Convention, 1896; Berlin Convention, 1908. Report of the delegate of the United States to the International Conference for the revision of the Berne Copyright Convention, held at Berlin, Germany, October 14 to November 14, 1908." Copyright Office bulletin, no. 13. Washington, Government Printing Office, Library Division, 1908. 69 pp. 4°. Contains: 1. Report of the U. S. Delegate. 2. Text of the Berlin Convention in English and French. Appendix 1. Texts of the Berne and Paris Conventions. Appendix 2. Bibliography of the International Copyright Union.

1909, Jan. 20. *Fourth public hearings* on the copyright bill before the subcommittee of the House Committee on Patents, held in the Patents Committee room of the House of Representatives, Jan. 20, 1909. Stenographic report: "Arguments before the copyright subcommittee of the Committee on Patents, House of Representatives, on common-law rights as applied to copyright (sec. 4, H. R. 21592), Jan. 20, 1909." 42 pp. 8°.

— Copyright bills and reports presented to 60th Congress, 2d session, continued:

H. R. 27310, introduced by Hon. C. G. Washburn, Jan. 28, 1909.

H. R. 28192, introduced by Hon. F. D. Currier, Feb. 15 (calendar day Feb. 17), 1909.

H. R. 28192, committed to the Committee of the Whole House, Feb. 22, 1909.

H. R. Rept. 2222, to accompany bill H. R. 28192, Feb. 22, 1909.

S. 9440, introduced by Senator R. Smoot, Feb. 22, 1909.

Amendments to the Copyright bill H. R. 28192, agreed to by the Committee on Patents, Feb. 26, 1909.

S. 9440 reported by Senator R. Smoot, March 1, 1909.

S. Rept. 1108, to accompany bill S. 9440, March 1, 1909.

— March 2. The Copyright bill H. R. 28192 was read in the House. (Congressional Record, v. 43, pp. 3701-3705.)

— March 3. Discussion in the Senate on the Copyright bill H. R. 28192 and bill passed by the Senate. (Congressional Record, v. 43, pp. 3744, 3746 and 3747.)

— March 3. Discussion in the House of Representatives on the Copyright bill H. R. 28192, and bill passed by House. (Congressional Record, v. 43, pp. 3765-3769.)

— March 4. Copyright Act signed by the President.

The Copyright bill (PUBLISHERS' WEEKLY, March 13, 1909, p. 1902) is printed with Index by the Copyright Office: "The copyright law of the United States of America, in force July 1, 1909. Replacing the Revised Statutes of the United States, Title 60, Chapter 3 (1873), and subsequent amendatory acts." Copyright Office bulletin, no. 14. 37 pp. 8°. See also Copyright Office circular 35 A for Directions under new law.

IMPORTATION OF COPYRIGHT BOOKS INTO FOREIGN COUNTRIES.

BY GEORGE HAVEN PUTNAM.

IN response to your recent request I report as follows the result of my specific inquiries as to the importation into other countries of copyright books:

1. The general Copyright Law of Great Britain is still, in its main provisions, that which was enacted in 1842. The later legislation has modified certain provisions of this Act having to do with art and with music, while the International Copyright Act of 1886, which brought Great Britain into the Convention of Berne, reshaped such of the provisions of the domestic act as had to do with international relations.

2. The Convention of Berne leaves undisturbed for the states which accept the international copyright system the domestic regulations, including those that have to do with importations. It is the purpose of the Convention of Berne to secure for the author the exclusive control of his production for the entire territory covered by the Convention, (practically now all the literature-producing states of Europe excepting Holland and Hungary,) and to leave with the author the authority to transfer to assigns the property control of the copyright for each state belonging to the Convention. It was clear to those who framed the Convention that unless the author could be placed in a position to give to his assign for each of the states concerned the same absolute control that he himself possessed, he could not secure the full return for the market value of his production.

3. The matter of the importation into Great Britain of copyrighted books is controlled by what is known as the Customs Law Consolidation Act, which bears the date of 1876, and which is scheduled as 39 and 40 Victoria. The importation provision of this Act reads:

SECTION 42. *Goods Prohibited to be Imported.*—"Books wherein the copyright shall be first subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, as to which the proprietor of such copyright or his agent shall have given to the Commissioners of Customs a notice in writing duly declared, that such copyright subsist, such notice also stating when such copyright expires."

SECTION 44. "The Commissioners of Customs shall cause to be made and to be publicly exposed in the Customs Houses in the several ports in the United Kingdom lists of all books wherein the copyright shall have subsisted," etc.

The English publishers report that it is their custom to submit from month to month to the proper bureau in the customs the lists of the publications in which they claim copyright. These lists are abstracted and summarized by the proper official in the customs, and according to my understanding, are now re-alphabetized from year to year.

The term "first printed" has been interpreted by the courts as covered by the printing within the United Kingdom (or within the British Empire) *not later* than the date of the first printing in any other country.

5. My experience during the past forty

years in connection with the booktrade of Great Britain has made clear to me that these provisions of the British Copyright Law are effective. There is, under the present practice of publishing, importing and bookselling, practically no interference with the exclusive control given to the author and to his assign, in the book that has secured British copyright.

6. No distinction is made in the law of Great Britain in the protection given to books originating abroad as compared with that secured for books originating in the British Kingdom, or to speak with more precision, within the territory of the British Empire. The term *copyright*, under the law of Great Britain (as is the case with the laws of other Continental states and with the provisions of the Convention of Berne) has but one meaning, namely, that of exclusive control. If a book has been duly entered for copyright under the British Act, it secures the consistent protection of such Act irrespective of the nationality of its author or the place of its origin.

7. While I have had, as said, full experience in the management of our own English business in regard to the working of the British Copyright Act and of the Convention of Berne, I have thought it in order, for the purpose of giving you the benefit of the latest possible information in the matter, to secure direct reports from leading publishers and from leading librarians in regard more particularly to the matter of importing of copies of copyrighted books. I give below a brief summary of the more important of these reports:

Publisher "A." (A barrister of experience who, a few years back, came into the control of an important publishing business.) —There can, of course, be no question as to the absolute control given under the English law to the producer and to his assign of the work copyrighted. As I understand the relations of Great Britain with the other states which have taken part in the Berne Convention, the author now secures the advantage of such control over the entire territory controlled by the Convention; and he is in a position to transfer such copyright to assigns (usually of course the publishers) for different divisions of this territory, that is to say, for the different states belonging to the Convention. I have never heard of any distinction being made in the case of a book originating outside of the British Empire. There is but one copyright recognized under the law, and if the necessary measures have been taken, that copyright gives full protection whatever may be the origin of the book.

We should, of course, not think of permitting the importation into Great Britain of a Tauchnitz edition, a Canadian edition, an Australian edition, or a United States edition of copies of any book, whether English, American or Continental in origin, for which we had secured the copyright in Great Britain.

According to my experience, the attempts at the evasion of the law are few. I know of no instances in which any such attempts have been made by librarians. No copies of foreign editions of our copyrighted books have, according to my knowledge, ever been traced to the libraries. The customs officials under-